

E2SHB 2322 - S COMM AMD
By Committee on Judiciary

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 43.101.080 and 2001 c 166 s 1 are each amended to
4 read as follows:

5 The commission shall have all of the following powers:

6 (1) To meet at such times and places as it may deem proper;

7 (2) To adopt any rules and regulations as it may deem necessary;

8 (3) To contract for services as it deems necessary in order to
9 carry out its duties and responsibilities;

10 (4) To cooperate with and secure the cooperation of any department,
11 agency, or instrumentality in state, county, and city government, and
12 other commissions affected by or concerned with the business of the
13 commission;

14 (5) To do any and all things necessary or convenient to enable it
15 fully and adequately to perform its duties and to exercise the power
16 granted to it;

17 (6) To select and employ an executive director, and to empower him
18 to perform such duties and responsibilities as it may deem necessary;

19 (7) To assume legal, fiscal, and program responsibility for all
20 training conducted by the commission;

21 (8) To establish, by rule and regulation, standards for the
22 training of criminal justice personnel where such standards are not
23 prescribed by statute;

24 (9) To own, establish, and operate, or to contract with other
25 qualified institutions or organizations for the operation of, training
26 and education programs for criminal justice personnel and to purchase,
27 lease, or otherwise acquire, subject to the approval of the department
28 of general administration, a training facility or facilities necessary
29 to the conducting of such programs;

1 (10) To establish, by rule and regulation, minimum curriculum
2 standards for all training programs conducted for employed criminal
3 justice personnel;

4 (11) To review and approve or reject standards for instructors of
5 training programs for criminal justice personnel, and to employ
6 personnel on a temporary basis as instructors without any loss of
7 employee benefits to those instructors;

8 (12) To direct the development of alternative, innovate, and
9 interdisciplinary training techniques;

10 (13) To review and approve or reject training programs conducted
11 for criminal justice personnel and rules establishing and prescribing
12 minimum training and education standards recommended by the training
13 standards and education boards;

14 (14) To allocate financial resources among training and education
15 programs conducted by the commission;

16 (15) To allocate training facility space among training and
17 education programs conducted by the commission;

18 (16) To issue diplomas certifying satisfactory completion of any
19 training or education program conducted or approved by the commission
20 to any person so completing such a program;

21 (17) To provide for the employment of such personnel as may be
22 practical to serve as temporary replacements for any person engaged in
23 a basic training program as defined by the commission;

24 (18) To establish rules and regulations recommended by the training
25 standards and education boards prescribing minimum standards relating
26 to physical, mental and moral fitness which shall govern the
27 recruitment of criminal justice personnel where such standards are not
28 prescribed by statute or constitutional provision;

29 (19) To require that each applicant that has been offered a
30 conditional offer of employment as a fully commissioned peace officer
31 or a fully commissioned reserve officer to take and successfully pass
32 a psychological examination and a polygraph test or similar assessment
33 procedure as administered by county, city, or state law enforcement
34 agencies as a condition of employment as a peace officer. The
35 employing county, city, or state law enforcement agency may require
36 that each peace officer or reserve officer who is required to take a
37 psychological examination and a polygraph or similar test pay a portion

1 of the testing fee based on the actual cost of the test or four hundred
2 dollars, whichever is less. County, city, and state law enforcement
3 agencies may establish a payment plan if they determine that the peace
4 officer or reserve officer does not readily have the means to pay for
5 his or her portion of the testing fee.

6 All rules and regulations adopted by the commission shall be
7 adopted and administered pursuant to the administrative procedure act,
8 chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.

9 **Sec. 2.** RCW 43.101.095 and 2001 c 167 s 2 are each amended to read
10 as follows:

11 (1) As a condition of continuing employment as peace officers, all
12 Washington peace officers: (a) Shall timely obtain certification as
13 peace officers, or timely obtain certification or exemption therefrom,
14 by meeting all requirements of RCW 43.101.200, as that section is
15 administered under the rules of the commission, as well by meeting any
16 additional requirements under this chapter; and (b) shall maintain the
17 basic certification as peace officers under this chapter. As a
18 condition of continuing employment for any applicant that has been
19 offered a conditional offer of employment as a fully commissioned peace
20 officer or a reserve officer after the effective date of this act,
21 including any person whose certification has lapsed as a result of a
22 break of more than twenty-four consecutive months in the officer's
23 service as a fully commissioned peace officer or reserve officer, he or
24 she shall successfully pass a psychological examination and a polygraph
25 or similar test as administered by the county, city, or state law
26 enforcement agency. The commission shall certify peace officers who
27 have satisfied, or have been exempted by statute or by rule from, the
28 basic training requirements of RCW 43.101.200 on or before January 1,
29 2002. Thereafter, the commission may revoke certification pursuant to
30 this chapter.

31 (2) The commission shall allow a peace officer to retain status as
32 a certified peace officer as long as the officer: (a) Timely meets the
33 basic law enforcement training requirements, or is exempted therefrom,
34 in whole or in part, under RCW 43.101.200 or under rule of the
35 commission; (b) meets or is exempted from any other requirements under

1 this chapter as administered under the rules adopted by the commission;
2 (c) is not denied certification by the commission under this chapter;
3 and (d) has not had certification revoked by the commission.

4 (3) As a prerequisite to certification, as well as a prerequisite
5 to pursuit of a hearing under RCW 43.101.155, a peace officer must, on
6 a form devised or adopted by the commission, authorize the release to
7 the commission of his or her personnel files, termination papers,
8 criminal investigation files, or other files, papers, or information
9 that are directly related to a certification matter or decertification
10 matter before the commission.

11 **Sec. 3.** RCW 43.101.105 and 2001 c 167 s 3 are each amended to read
12 as follows:

13 (1) Upon request by a peace officer's employer or on its own
14 initiative, the commission may deny or revoke certification of any
15 peace officer, after written notice and hearing, if a hearing is timely
16 requested by the peace officer under RCW 43.101.155, based upon a
17 finding of one or more of the following conditions:

18 ((+1)) (a) The peace officer has failed to timely meet all
19 requirements for obtaining a certificate of basic law enforcement
20 training, a certificate of basic law enforcement training equivalency,
21 or a certificate of exemption from the training;

22 ((+2)) (b) The peace officer has knowingly falsified or omitted
23 material information on an application for training or certification to
24 the commission;

25 ((+3)) (c) The peace officer has been convicted at any time of a
26 felony offense under the laws of this state or has been convicted of a
27 federal or out-of-state offense comparable to a felony under the laws
28 of this state; except that if a certified peace officer was convicted
29 of a felony before being employed as a peace officer, and the
30 circumstances of the prior felony conviction were fully disclosed to
31 his or her employer before being hired, the commission may revoke
32 certification only with the agreement of the employing law enforcement
33 agency;

34 ((+4)) (d) The peace officer has been discharged for disqualifying
35 misconduct, the discharge is final, and some or all of the acts or

1 omissions forming the basis for the discharge proceedings occurred on
2 or after January 1, 2002;

3 ~~((+5))~~ (e) The peace officer's certificate was previously issued
4 by administrative error on the part of the commission; or

5 ~~((+6))~~ (f) The peace officer has interfered with an investigation
6 or action for denial or revocation of certificate by: ~~((+a))~~ (i)
7 Knowingly making a materially false statement to the commission; or
8 ~~((+b))~~ (ii) in any matter under investigation by or otherwise before
9 the commission, tampering with evidence or tampering with or
10 intimidating any witness.

11 (2) After the effective date of this act, the commission shall deny
12 certification of any applicant that has lost his or her certification
13 as result of a break in service of more than twenty-four consecutive
14 months if that applicant failed to successfully pass the psychological
15 examination and the polygraph test or similar assessment procedure, as
16 administered by county, city, or state law enforcement agencies.

17 NEW SECTION. Sec. 4. A new section is added to chapter 43.101 RCW
18 to read as follows:

19 Before a person may be appointed or hired to act as a fully
20 commissioned peace officer or a reserve officer, the person shall meet
21 the minimum standards for employment with the hiring local law
22 enforcement agency, including: (1) Successful completion of a
23 psychological examination and polygraph examination administered by
24 county, city, or state law enforcement agencies; and (2) meeting the
25 requirements of RCW 43.101.200.

26 Sec. 5. RCW 43.43.020 and 1983 c 144 s 1 are each amended to read
27 as follows:

28 The governor, with the advice and consent of the senate, shall
29 appoint the chief of the Washington state patrol, determine his
30 compensation, and may remove him at will.

31 The chief shall appoint a sufficient number of competent persons to
32 act as Washington state patrol officers, may remove them for cause, as
33 provided in this chapter, and shall make promotional appointments,
34 determine their compensation, and define their rank and duties, as
35 hereinafter provided. Before a person may be appointed to act as a

1 Washington state patrol officer, the person shall meet the minimum
2 standards for employment with the Washington state patrol, including
3 successful completion of a psychological examination and polygraph
4 examination or similar assessment procedure administered by the chief
5 or his or her designee.

6 The chief may appoint employees of the Washington state patrol to
7 serve as special deputies, with such restricted police authority as the
8 chief shall designate as being necessary and consistent with their
9 assignment to duty. Such appointment and conferral of authority shall
10 not qualify said employees for membership in the Washington state
11 patrol retirement system, nor shall it grant tenure of office as a
12 regular officer of the Washington state patrol.

13 The chief may personally appoint, with the consent of the state
14 treasurer, employees of the office of the state treasurer who are
15 qualified under the standards of the criminal justice training
16 commission, or who have comparable training and experience, to serve as
17 special deputies. The law enforcement powers of any special deputies
18 appointed in the office of the state treasurer shall be designated by
19 the chief and shall be restricted to those powers necessary to provide
20 for statewide security of the holdings or property of or under the
21 custody of the office of the state treasurer. These appointments may
22 be revoked by the chief at any time and shall be revoked upon the
23 written request of the state treasurer or by operation of law upon
24 termination of the special deputy's employment with the office of the
25 state treasurer or thirty days after the chief who made the appointment
26 leaves office. The chief shall be civilly immune for the acts of such
27 special deputies. Such appointment and conferral of authority shall
28 not qualify such employees for membership in the Washington state
29 patrol retirement system, nor shall it grant tenure of office as a
30 regular officer of the Washington state patrol.

31 **Sec. 6.** RCW 49.44.120 and 2003 c 53 s 278 are each amended to read
32 as follows:

33 (1) It shall be unlawful for any person, firm, corporation or the
34 state of Washington, its political subdivisions or municipal
35 corporations to require, directly or indirectly, that any employee or
36 prospective employee take or be subjected to any lie detector or

1 similar tests as a condition of employment or continued employment:
2 PROVIDED, That this section shall not apply to persons making initial
3 application for employment with any law enforcement agency, or as is
4 otherwise mandated by the Washington state criminal justice training
5 commission as a condition of peace officer certification: PROVIDED
6 FURTHER, That this section shall not apply to either the initial
7 application for employment or continued employment of persons who
8 manufacture, distribute, or dispense controlled substances as defined
9 in chapter 69.50 RCW, or to persons in sensitive positions directly
10 involving national security.

11 (2) Nothing in this section shall be construed to prohibit the use
12 of psychological tests as defined in RCW 18.83.010.

13 (3) Any person violating this section is guilty of a misdemeanor.

14 (4) As used in this section, "person" includes any individual,
15 firm, corporation, or agency or political subdivision of the state.

16 (5) Nothing in this section may be construed as limiting any
17 statutory or common law rights of any person illegally denied
18 employment or continued employment under this section for purposes of
19 any civil action or injunctive relief.

20 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2004."

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21 On page 1, line 2 of the title, after "applicants;" strike the
22 remainder of the title and insert "amending RCW 43.101.080, 43.101.095,
23 43.101.105, 43.43.020, and 49.44.120; adding a new section to chapter
24 43.101 RCW; and providing an effective date."

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