

HB 1081 - S COMM AMD
By Committee on Judiciary

ADOPTED 04/14/2005

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 take and successfully pass a
32 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 psychological examination and the polygraph examination shall be
36 administered in accordance with the requirements of RCW 43.101.095(2).
37 The employing county, city, or state law enforcement agency may require
38 that each peace officer or reserve officer who is required to take a

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

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

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

12 (1) As a condition of continuing employment as peace officers, all
13 Washington peace officers: (a) Shall timely obtain certification as
14 peace officers, or timely obtain certification or exemption therefrom,
15 by meeting all requirements of RCW 43.101.200, as that section is
16 administered under the rules of the commission, as well by meeting any
17 additional requirements under this chapter; and (b) shall maintain the
18 basic certification as peace officers under this chapter.

19 (2)(a) As a condition of continuing employment for any applicant
20 that has been offered a conditional offer of employment as a fully
21 commissioned peace officer or a reserve officer after the effective
22 date of this act, including any person whose certification has lapsed
23 as a result of a break of more than twenty-four consecutive months in
24 the officer's service as a fully commissioned peace officer or reserve
25 officer, the applicant shall successfully pass a psychological
26 examination and a polygraph or similar test as administered by the
27 county, city, or state law enforcement agency that complies with the
28 following requirements:

29 (i) The psychological examination shall be administered by a
30 psychiatrist licensed in the state of Washington pursuant to chapter
31 18.71 RCW or a psychologist licensed in the state of Washington
32 pursuant to chapter 18.83 RCW. The examination shall consist of, at a
33 minimum, a standardized clinical test that is widely used as an
34 objective clinical screening tool for personality and psychosocial
35 disorders. The test that is used and the conditions under which the
36 test is administered, scored, and interpreted must comply with accepted

1 psychological standards. Additional tests may be administered at the
2 option of the employing law enforcement agency.

3 (ii) The polygraph examination or similar assessment shall be
4 administered by an experienced polygrapher who is a graduate of a
5 polygraph school accredited by the American polygraph association.

6 (b) The employing county, city, or state law enforcement agency may
7 require that each peace officer or reserve officer who is required to
8 take a psychological examination and a polygraph or similar test pay a
9 portion of the testing fee based on the actual cost of the test or four
10 hundred dollars, whichever is less. County, city, and state law
11 enforcement agencies may establish a payment plan if they determine
12 that the peace officer or reserve officer does not readily have the
13 means to pay for his or her portion of the testing fee.

14 (3) The commission shall certify peace officers who have satisfied,
15 or have been exempted by statute or by rule from, the basic training
16 requirements of RCW 43.101.200 on or before January 1, 2002.
17 Thereafter, the commission may revoke certification pursuant to this
18 chapter.

19 ~~((+2))~~ (4) The commission shall allow a peace officer to retain
20 status as a certified peace officer as long as the officer: (a) Timely
21 meets the basic law enforcement training requirements, or is exempted
22 therefrom, in whole or in part, under RCW 43.101.200 or under rule of
23 the commission; (b) meets or is exempted from any other requirements
24 under this chapter as administered under the rules adopted by the
25 commission; (c) is not denied certification by the commission under
26 this chapter; and (d) has not had certification revoked by the
27 commission.

28 ~~((+3))~~ (5) As a prerequisite to certification, as well as a
29 prerequisite to pursuit of a hearing under RCW 43.101.155, a peace
30 officer must, on a form devised or adopted by the commission, authorize
31 the release to the commission of his or her personnel files,
32 termination papers, criminal investigation files, or other files,
33 papers, or information that are directly related to a certification
34 matter or decertification matter before the commission.

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

37 (1) Upon request by a peace officer's employer or on its own

1 initiative, the commission may deny or revoke certification of any
2 peace officer, after written notice and hearing, if a hearing is timely
3 requested by the peace officer under RCW 43.101.155, based upon a
4 finding of one or more of the following conditions:

5 ~~((1))~~ (a) The peace officer has failed to timely meet all
6 requirements for obtaining a certificate of basic law enforcement
7 training, a certificate of basic law enforcement training equivalency,
8 or a certificate of exemption from the training;

9 ~~((2))~~ (b) The peace officer has knowingly falsified or omitted
10 material information on an application for training or certification to
11 the commission;

12 ~~((3))~~ (c) The peace officer has been convicted at any time of a
13 felony offense under the laws of this state or has been convicted of a
14 federal or out-of-state offense comparable to a felony under the laws
15 of this state; except that if a certified peace officer was convicted
16 of a felony before being employed as a peace officer, and the
17 circumstances of the prior felony conviction were fully disclosed to
18 his or her employer before being hired, the commission may revoke
19 certification only with the agreement of the employing law enforcement
20 agency;

21 ~~((4))~~ (d) The peace officer has been discharged for disqualifying
22 misconduct, the discharge is final, and some or all of the acts or
23 omissions forming the basis for the discharge proceedings occurred on
24 or after January 1, 2002;

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

27 ~~((6))~~ (f) The peace officer has interfered with an investigation
28 or action for denial or revocation of certificate by: ~~((a))~~ (i)
29 Knowingly making a materially false statement to the commission; or
30 ~~((b))~~ (ii) in any matter under investigation by or otherwise before
31 the commission, tampering with evidence or tampering with or
32 intimidating any witness.

33 (2) After the effective date of this act, the commission shall deny
34 certification to any applicant that has lost his or her certification
35 as a result of a break in service of more than twenty-four consecutive
36 months if that applicant failed to successfully pass the psychological
37 examination and the polygraph test or similar assessment procedure

1 required in RCW 43.101.095(2), as administered by county, city, or
2 state law enforcement agencies.

3 **Sec. 4.** RCW 43.43.020 and 1983 c 144 s 1 are each amended to read
4 as follows:

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

8 The chief shall appoint a sufficient number of competent persons to
9 act as Washington state patrol officers, may remove them for cause, as
10 provided in this chapter, and shall make promotional appointments,
11 determine their compensation, and define their rank and duties, as
12 hereinafter provided. Before a person may be appointed to act as a
13 Washington state patrol officer, the person shall meet the minimum
14 standards for employment with the Washington state patrol, including
15 successful completion of a psychological examination and polygraph
16 examination or similar assessment procedure administered by the chief
17 or his or her designee in accordance with the requirements of RCW
18 43.101.095(2).

19 The chief may appoint employees of the Washington state patrol to
20 serve as special deputies, with such restricted police authority as the
21 chief shall designate as being necessary and consistent with their
22 assignment to duty. Such appointment and conferral of authority shall
23 not qualify said employees for membership in the Washington state
24 patrol retirement system, nor shall it grant tenure of office as a
25 regular officer of the Washington state patrol.

26 The chief may personally appoint, with the consent of the state
27 treasurer, employees of the office of the state treasurer who are
28 qualified under the standards of the criminal justice training
29 commission, or who have comparable training and experience, to serve as
30 special deputies. The law enforcement powers of any special deputies
31 appointed in the office of the state treasurer shall be designated by
32 the chief and shall be restricted to those powers necessary to provide
33 for statewide security of the holdings or property of or under the
34 custody of the office of the state treasurer. These appointments may
35 be revoked by the chief at any time and shall be revoked upon the
36 written request of the state treasurer or by operation of law upon
37 termination of the special deputy's employment with the office of the

1 state treasurer or thirty days after the chief who made the appointment
2 leaves office. The chief shall be civilly immune for the acts of such
3 special deputies. Such appointment and conferral of authority shall
4 not qualify such employees for membership in the Washington state
5 patrol retirement system, nor shall it grant tenure of office as a
6 regular officer of the Washington state patrol."

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7 On page 1, line 2 of the title, after "applicants;" strike the
8 remainder of the title and insert "and amending RCW 43.101.080,
9 43.101.095, 43.101.105, and 43.43.020."

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