

EHB 2476 - S COMM AMD
By Committee on Judiciary

NOT ADOPTED 03/07/2008

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

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "General authority Washington peace officer" means an officer
6 authorized to enforce the criminal and traffic laws of the state of
7 Washington generally.

8 (2) "Tribal police officer" means any person in the employ of one
9 of the federally recognized sovereign tribal governments, whose
10 traditional lands and territories lie within the borders of the state
11 of Washington, to enforce the criminal laws of that government.

12 NEW SECTION. **Sec. 2.** (1) Tribal police officers under subsection
13 (2) of this section shall be recognized and authorized to act as
14 general authority Washington peace officers. A tribal police officer
15 recognized and authorized to act as a general authority Washington
16 peace officer under this section has the same powers as any other
17 general authority Washington peace officer to enforce state laws in
18 Washington, including the power to make arrests for violations of state
19 laws.

20 (2) A tribal police officer may exercise the powers of law
21 enforcement of a general authority Washington peace officer under this
22 section, subject to the following:

23 (a) The appropriate sovereign tribal nation shall submit to the
24 office of financial management proof of public liability and property
25 damage insurance for vehicles operated by the peace officers and police
26 professional liability insurance from a company licensed to sell
27 insurance in the state.

28 (i) Within the thirty days of receipt of written proof of insurance
29 from the sovereign tribal nation, the office of financial management

1 shall either approve or reject the adequacy of insurance. The adequacy
2 of insurance under this chapter shall be subject to annual review by
3 the state office of financial management.

4 (ii) Each policy of insurance issued under this chapter must
5 include a provision that the insurance shall be available to satisfy
6 settlements or judgments arising from the tortious conduct of tribal
7 police officers when acting in the capacity of a general authority
8 Washington peace officer, and that to the extent of policy coverage
9 neither the sovereign tribal nation nor its liability insurance
10 companies will raise a defense of sovereign immunity to preclude an
11 action for damages, the determination of fault in a civil action, or
12 the payment of a settlement or judgment arising from the tortious
13 conduct.

14 (b) The appropriate sovereign tribal nation shall submit to the
15 office of financial management proof of training requirements for each
16 tribal police officer. To be authorized as a general authority
17 Washington peace officer, a tribal police officer must successfully
18 complete the requirements set forth under RCW 43.101.157. Any
19 applicant not meeting the requirements for certification as a tribal
20 police officer may not act as a general authority Washington peace
21 officer under this chapter. The criminal justice training commission
22 shall notify the office of financial management if:

23 (i) A tribal police officer authorized under this act as a general
24 authority Washington state peace officer has been decertified pursuant
25 to RCW 43.101.157; or

26 (ii) An appropriate sovereign tribal government is otherwise in
27 noncompliance with RCW 43.101.157.

28 (3) A copy of any citation or notice of infraction issued, or any
29 incident report taken, by a tribal police officer acting in the
30 capacity of a general authority Washington peace officer as authorized
31 by this act must be submitted within three days to the police chief or
32 sheriff within whose jurisdiction the action was taken. Any citation
33 issued under this section shall be to a Washington court, except that
34 any citation issued to Indians within the exterior boundaries of an
35 Indian reservation may be cited to a tribal court. Any arrest made or
36 citation issued not in compliance with this section is not enforceable.

37 (4) Any authorization granted under this act shall not in any way
38 expand the jurisdiction of any tribal court or other tribal authority.

1 (5) The authority granted under this act shall be coextensive with
2 the exterior boundaries of the reservation, except that an officer
3 commissioned under this act may act as authorized under RCW 10.93.070
4 beyond the exterior boundaries of the reservation.

5 (6) For purposes of civil liability under this chapter, a tribal
6 police officer shall not be considered an employee of the state of
7 Washington or any local government. Neither the state of Washington
8 nor local governments nor their individual employees thereof shall be
9 liable for the authorization of tribal police officers under this
10 chapter, nor for the negligence or other misconduct of tribal officers.
11 The authorization of tribal police officers under this chapter shall
12 not be deemed to have been a nondelegable duty of the state of
13 Washington or any local government.

14 (7) Nothing in this act impairs or affects the existing status and
15 sovereignty of those sovereign tribal governments whose traditional
16 lands and territories lie within the borders of the state of Washington
17 as established under the laws of the United States.

18 (8) Nothing in this act limits, impairs, or nullifies the authority
19 of a county sheriff to appoint duly commissioned state or federally
20 certified tribal police officers as deputy sheriffs authorized to
21 enforce the criminal and traffic laws of the state of Washington.

22 (9) Nothing in this act limits, impairs, or otherwise affects the
23 existing authority under state or federal law of state or local law
24 enforcement officers to (a) enforce state law within the exterior
25 boundaries of an Indian reservation; or (b) enter Indian country in
26 fresh pursuit of a person suspected of violating state law, where the
27 officer would otherwise not have jurisdiction, as fresh pursuit is
28 defined in RCW 10.93.120.

29 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a
30 new chapter in Title 10 RCW.

31 NEW SECTION. **Sec. 4.** (1) This act takes effect June 1, 2009,
32 provided however, if a sovereign tribal nation has entered into an
33 interlocal agreement pursuant to chapter 39.34 RCW with an appropriate
34 local government regarding the implementation of the provisions of this
35 act and the requirements of section 2(2) of this act have been met, the
36 agreement shall be effective immediately thereafter.

1 (2)(a) If a sovereign tribal nation and an appropriate local
2 government have failed to enter into an interlocal agreement pursuant
3 to chapter 39.34 RCW prior to June 1, 2009, regarding the
4 implementation of the provisions of this act, the sovereign tribal
5 nation and the appropriate local government shall agree to binding
6 arbitration to resolve any conflicts regarding the implementation of
7 the provisions of this act.

8 (b) The sovereign tribal nation and the appropriate local
9 government shall agree to an arbitration panel consisting of three
10 members. Each party shall name one person to serve as its arbitrator
11 on the arbitration panel. The two members appointed shall meet within
12 seven days following the appointment of the later appointed member to
13 choose a third member to act as the neutral chair of the arbitration
14 panel.

15 (c) Each party shall pay the fees and expenses of its arbitrator,
16 and the fees and expenses of the neutral chair shall be shared equally
17 between the parties.

18 (d) The arbitration panel shall consider the final offer submitted
19 by each party and shall select the offer that best implements the
20 provisions of this act."

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21 On page 1, line 2 of the title, after "officers;" strike the
22 remainder of the title and insert "adding a new chapter to Title 10
23 RCW; and providing an effective date."

EFFECT: (1) This amendment takes account of the definition of
general authority Washington peace officer in section 1 of this act,
and therefore references to section 2 of this act when referring to the

powers of a general authority Washington peace officer are replaced with references to this act. The amendment also clarifies that nothing in this act has an effect on the existing authority of state and local law enforcement officers under federal law to (1) enforce state law within the external boundaries of an Indian reservation, and (2) enter Indian country in fresh pursuit of a person suspected of violating state law in order to investigate and effectuate an arrest.

(2) Language is added to provide that in addition to a sovereign tribal nation, its insurance companies shall also not raise a defense of sovereign immunity to preclude an action for damages, the determination of fault in a civil action, or the payment of a settlement or judgment arising from the tortious conduct of tribal police officers when acting in the capacity of a general authority WA peace officer.

(3) Language is added to provide that for purposes of civil liability, a tribal police officer shall not be considered an employee of any local government in addition to not being considered an employee of WA state.

(4) Language is added to provide that in addition to WA state, neither local governments nor their individual employees shall be liable for the authorization of tribal police officers under the provisions of the bill, nor for the negligence or other misconduct of tribal officers.

(5) The authorization of tribal police officers under the provisions of the bill shall not be deemed to have been a nondelegable duty of WA state or any local government.

(6) An effective date of June 1, 2009, is added.

(7) However, if a sovereign tribal nation has entered into an interlocal agreement with an appropriate local government regarding the implementation of the provisions of the bill prior to the effective date, and the other requirements in the bill regarding certification and insurance liability have been met, the interlocal agreement shall be effective immediately.

(8) If a sovereign tribal nation and an appropriate local government have failed to enter into an interlocal agreement prior to June 1, 2009, the sovereign tribal nation and local government shall agree to binding arbitration to resolve any conflicts regarding the implementation of the provisions of the legislation.

(9) The sovereign tribal nation and the appropriate local government shall agree to an arbitration panel consisting of 3 members. Each party shall name one person to serve as its arbitrator and the two members appointed shall choose a third member.

(10) The arbitration panel shall consider the final offer submitted by each party and shall select the offer that best implements the provisions of the legislation.

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