

SHB 1567 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 04/06/2011

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

3 "Sec. 1. RCW 43.101.080 and 2008 c 69 s 3 are each amended to read
4 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 or her to perform such duties and responsibilities as it may deem
19 necessary;

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

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

25 (9) To own, establish, and operate, or to contract with other
26 qualified institutions or organizations for the operation of, training
27 and education programs for criminal justice personnel and to purchase,
28 lease, or otherwise acquire, subject to the approval of the department
29 of general administration, a training facility or facilities necessary
30 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)) county, city, or state law enforcement
33 agencies that make a conditional offer of employment to an applicant as
34 a fully commissioned peace officer or a reserve officer to administer
35 a background investigation including a check of criminal history, a
36 psychological examination, and a polygraph test or similar assessment
37 ~~((procedure as administered by county, city, or state law enforcement~~
38 ~~agencies as a condition of employment as a peace officer)) to each~~~~

1 applicant, the results of which shall be used by the employer to
2 determine the applicant's suitability for employment as a fully
3 commissioned peace officer or a reserve officer. The background
4 investigation, psychological examination, and the polygraph examination
5 shall be administered in accordance with the requirements of RCW
6 43.101.095(2). The employing county, city, or state law enforcement
7 agency may require that each peace officer or reserve officer who is
8 required to take a psychological examination and a polygraph or similar
9 test pay a portion of the testing fee based on the actual cost of the
10 test or four hundred dollars, whichever is less. County, city, and
11 state law enforcement agencies may establish a payment plan if they
12 determine that the peace officer or reserve officer does not readily
13 have the means to pay for his or her portion of the testing fee;

14 (20) To promote positive relationships between law enforcement and
15 the citizens of the state of Washington by allowing commissioners and
16 staff to participate in the "chief for a day program." The executive
17 director shall designate staff who may participate. In furtherance of
18 this purpose, the commission may accept grants of funds and gifts and
19 may use its public facilities for such purpose. At all times, the
20 participation of commissioners and staff shall comply with chapter
21 42.52 RCW and chapter 292-110 WAC.

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

25 **Sec. 2.** RCW 43.101.095 and 2009 c 139 s 1 are each amended to read
26 as follows:

27 (1) As a condition of continuing employment as peace officers, all
28 Washington peace officers: (a) Shall timely obtain certification as
29 peace officers, or timely obtain certification or exemption therefrom,
30 by meeting all requirements of RCW 43.101.200, as that section is
31 administered under the rules of the commission, as well by meeting any
32 additional requirements under this chapter; and (b) shall maintain the
33 basic certification as peace officers under this chapter.

34 (2)(a) As a condition of continuing employment for any applicant
35 (~~that~~) who has been offered a conditional offer of employment as a
36 fully commissioned peace officer or a reserve officer after July 24,
37 2005, including any person whose certification has lapsed as a result

1 of a break of more than twenty-four consecutive months in the officer's
2 service as a fully commissioned peace officer or reserve officer, the
3 applicant shall ~~((successfully pass))~~ submit to a background
4 investigation including a check of criminal history, a psychological
5 examination, and a polygraph or similar ((test)) assessment as
6 administered by the county, city, or state law enforcement agency
7 ~~((that complies with the following requirements:~~

8 ~~(i) The psychological examination shall be administered by a~~
9 ~~psychiatrist licensed in the state of Washington pursuant to chapter~~
10 ~~18.71 RCW or a psychologist licensed in the state of Washington~~
11 ~~pursuant to chapter 18.83 RCW in compliance with standards established~~
12 ~~in rules of the commission.~~

13 ~~((ii))~~, the results of which shall be used to determine the
14 applicant's suitability for employment as a fully commissioned peace
15 officer or a reserve officer.

16 (i) The background investigation including a check of criminal
17 history shall be administered by the county, city, or state law
18 enforcement agency that made the conditional offer of employment in
19 compliance with standards established in the rules of the commission.

20 (ii) The psychological examination shall be administered by a
21 psychiatrist licensed in the state of Washington pursuant to chapter
22 18.71 RCW or a psychologist licensed in the state of Washington
23 pursuant to chapter 18.83 RCW, in compliance with standards established
24 in rules of the commission.

25 (iii) The polygraph ((examination or similar assessment)) test
26 shall be administered by an experienced polygrapher who is a graduate
27 of a polygraph school accredited by the American polygraph association
28 and in compliance with standards established in rules of the
29 commission.

30 (iv) Any other test or assessment to be administered as part of the
31 background investigation shall be administered in compliance with
32 standards established in rules of the commission.

33 (b) The employing county, city, or state law enforcement agency may
34 require that each peace officer or reserve officer who is required to
35 take a psychological examination and a polygraph or similar test pay a
36 portion of the testing fee based on the actual cost of the test or four
37 hundred dollars, whichever is less. County, city, and state law

1 enforcement agencies may establish a payment plan if they determine
2 that the peace officer or reserve officer does not readily have the
3 means to pay for his or her portion of the testing fee.

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

9 (4) The commission shall allow a peace officer to retain status as
10 a certified peace officer as long as the officer: (a) Timely meets the
11 basic law enforcement training requirements, or is exempted therefrom,
12 in whole or in part, under RCW 43.101.200 or under rule of the
13 commission; (b) meets or is exempted from any other requirements under
14 this chapter as administered under the rules adopted by the commission;
15 (c) is not denied certification by the commission under this chapter;
16 and (d) has not had certification revoked by the commission.

17 (5) As a prerequisite to certification, as well as a prerequisite
18 to pursuit of a hearing under RCW 43.101.155, a peace officer must, on
19 a form devised or adopted by the commission, authorize the release to
20 the commission of his or her personnel files, termination papers,
21 criminal investigation files, or other files, papers, or information
22 that are directly related to a certification matter or decertification
23 matter before the commission.

24 (6) The commission is authorized to receive criminal history record
25 information that includes nonconviction data for any purpose associated
26 with employment by the commission or peace officer certification under
27 this chapter. Dissemination or use of nonconviction data for purposes
28 other than that authorized in this section is prohibited.

29 (7) For a national criminal history records check, the commission
30 shall require fingerprints be submitted and searched through the
31 Washington state patrol identification and criminal history section.
32 The Washington state patrol shall forward the fingerprints to the
33 federal bureau of investigation.

34 **Sec. 3.** RCW 43.101.105 and 2005 c 434 s 3 are each amended to read
35 as follows:

36 (1) Upon request by a peace officer's employer or on its own
37 initiative, the commission may deny or revoke certification of any

1 peace officer, after written notice and hearing, if a hearing is timely
2 requested by the peace officer under RCW 43.101.155, based upon a
3 finding of one or more of the following conditions:

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

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

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

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

23 (e) The peace officer's certificate was previously issued by
24 administrative error on the part of the commission; or

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

30 (2) After July 24, 2005, the commission shall deny certification to
31 any applicant (~~that~~) who has lost his or her certification as a
32 result of a break in service of more than twenty-four consecutive
33 months if that applicant failed to (~~successfully pass the~~
34 ~~psychological examination and the polygraph test or similar assessment~~
35 ~~procedure required in~~) comply with the requirements set forth in RCW
36 43.101.080(19) and 43.101.095(2) (~~(, as administered by county, city, or~~
37 ~~state law enforcement agencies)~~). "

ADOPTED 04/06/2011

1 On page 1, line 2 of the title, after "officers;" strike the
2 remainder of the title and insert "and amending RCW 43.101.080,
3 43.101.095, and 43.101.105."

EFFECT: A polygraph test must be administered by an experienced polygrapher who is a graduate of an accredited polygraph school and in compliance with Criminal Justice Training Commission (CJTC) rules. Any other test administered as part of the background investigation must be administered in compliance with CJTC rules.

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