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SENATE BILL 5389

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State of Washington

65th Legislature

2017 Regular Session

By Senators Miloscia and Palumbo

Read first time 01/23/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to civil service qualifications; amending RCW  
2 41.08.070, 41.12.070, 41.14.100, 43.101.080, and 43.101.095; and  
3 adding a new section to chapter 41.04 RCW.

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

5 **Sec. 1.** RCW 41.08.070 and 1972 ex.s. c 37 s 2 are each amended  
6 to read as follows:

7 An applicant for a position of any kind under civil service under  
8 the provisions of this chapter, must be a citizen of the United  
9 States of America or a lawful permanent resident who can read and  
10 write the English language.

11 An applicant for a position of any kind under civil service must  
12 be of an age suitable for the position applied for, in ordinary good  
13 health, of good moral character and of temperate and industrious  
14 habits; these facts to be ascertained in such manner as the  
15 commission may deem advisable.

16 **Sec. 2.** RCW 41.12.070 and 1972 ex.s. c 37 s 3 are each amended  
17 to read as follows:

18 An applicant for a position of any kind under civil service under  
19 the provisions of this chapter, must be a citizen of the United

1 States of America or a lawful permanent resident who can read and  
2 write the English language.

3 An applicant for a position of any kind under civil service must  
4 be of an age suitable for the position applied for, in ordinary good  
5 health, of good moral character and of temperate and industrious  
6 habits; these facts to be ascertained in such manner as the  
7 commission may deem advisable.

8 An application for a position with a law enforcement agency may  
9 be rejected if the law enforcement agency deems that it does not have  
10 the resources to conduct the background investigation required  
11 pursuant to chapter 43.101 RCW. Resources means materials, funding,  
12 and staff time. Nothing in this section impairs an applicant's rights  
13 under state antidiscrimination laws.

14 **Sec. 3.** RCW 41.14.100 and 1963 c 95 s 3 are each amended to read  
15 as follows:

16 An applicant for a position of any kind under civil service under  
17 the provisions of this chapter, must be a citizen of the United  
18 States or a lawful permanent resident who can read and write the  
19 English language.

20 An application for a position with a law enforcement agency may  
21 be rejected if the law enforcement agency deems that it does not have  
22 the resources to conduct the background investigation required  
23 pursuant to chapter 43.101 RCW. Resources means materials, funding,  
24 and staff time. Nothing in this section impairs an applicant's rights  
25 under state antidiscrimination laws.

26 **Sec. 4.** RCW 43.101.080 and 2015 c 225 s 90 are each amended to  
27 read as follows:

28 The commission shall have all of the following powers:

- 29 (1) To meet at such times and places as it may deem proper;
- 30 (2) To adopt any rules and regulations as it may deem necessary;
- 31 (3) To contract for services as it deems necessary in order to  
32 carry out its duties and responsibilities;
- 33 (4) To cooperate with and secure the cooperation of any  
34 department, agency, or instrumentality in state, county, and city  
35 government, and other commissions affected by or concerned with the  
36 business of the commission;

- 1 (5) To do any and all things necessary or convenient to enable it  
2 fully and adequately to perform its duties and to exercise the power  
3 granted to it;
- 4 (6) To select and employ an executive director, and to empower  
5 him or her to perform such duties and responsibilities as it may deem  
6 necessary;
- 7 (7) To assume legal, fiscal, and program responsibility for all  
8 training conducted by the commission;
- 9 (8) To establish, by rule and regulation, standards for the  
10 training of criminal justice personnel where such standards are not  
11 prescribed by statute;
- 12 (9) To own, establish, and operate, or to contract with other  
13 qualified institutions or organizations for the operation of,  
14 training and education programs for criminal justice personnel and to  
15 purchase, lease, or otherwise acquire, subject to the approval of the  
16 department of enterprise services, a training facility or facilities  
17 necessary to the conducting of such programs;
- 18 (10) To establish, by rule and regulation, minimum curriculum  
19 standards for all training programs conducted for employed criminal  
20 justice personnel;
- 21 (11) To review and approve or reject standards for instructors of  
22 training programs for criminal justice personnel, and to employ  
23 personnel on a temporary basis as instructors without any loss of  
24 employee benefits to those instructors;
- 25 (12) To direct the development of alternative, (~~innovate~~  
26 ~~[innovative]~~) innovative, and interdisciplinary training techniques;
- 27 (13) To review and approve or reject training programs conducted  
28 for criminal justice personnel and rules establishing and prescribing  
29 minimum training and education standards recommended by the training  
30 standards and education boards;
- 31 (14) To allocate financial resources among training and education  
32 programs conducted by the commission;
- 33 (15) To allocate training facility space among training and  
34 education programs conducted by the commission;
- 35 (16) To issue diplomas certifying satisfactory completion of any  
36 training or education program conducted or approved by the commission  
37 to any person so completing such a program;
- 38 (17) To provide for the employment of such personnel as may be  
39 practical to serve as temporary replacements for any person engaged  
40 in a basic training program as defined by the commission;

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

6 (19) To require county, city, or state law enforcement agencies  
7 that make a conditional offer of employment to an applicant as a  
8 fully commissioned peace officer or a reserve officer to administer a  
9 background investigation including a check of criminal history,  
10 verification of immigrant or citizenship status as either a citizen  
11 of the United States of America or a lawful permanent resident, a  
12 psychological examination, and a polygraph test or similar assessment  
13 to each applicant, the results of which shall be used by the employer  
14 to determine the applicant's suitability for employment as a fully  
15 commissioned peace officer or a reserve officer. The background  
16 investigation, psychological examination, and the polygraph  
17 examination shall be administered in accordance with the requirements  
18 of RCW 43.101.095(2). The employing county, city, or state law  
19 enforcement agency may require that each peace officer or reserve  
20 officer who is required to take a psychological examination and a  
21 polygraph or similar test pay a portion of the testing fee based on  
22 the actual cost of the test or four hundred dollars, whichever is  
23 less. County, city, and state law enforcement agencies may establish  
24 a payment plan if they determine that the peace officer or reserve  
25 officer does not readily have the means to pay for his or her portion  
26 of the testing fee;

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

35 All rules and regulations adopted by the commission shall be  
36 adopted and administered pursuant to the administrative procedure  
37 act, chapter 34.05 RCW, and the open public meetings act, chapter  
38 42.30 RCW.

1       **Sec. 5.** RCW 43.101.095 and 2011 c 234 s 2 are each amended to  
2 read as follows:

3       (1) As a condition of continuing employment as peace officers,  
4 all Washington peace officers: (a) Shall timely obtain certification  
5 as peace officers, or timely obtain certification or exemption  
6 therefrom, by meeting all requirements of RCW 43.101.200, as that  
7 section is administered under the rules of the commission, as well by  
8 meeting any additional requirements under this chapter; and (b) shall  
9 maintain the basic certification as peace officers under this  
10 chapter.

11       (2)(a) As a condition of continuing employment for any applicant  
12 who has been offered a conditional offer of employment as a fully  
13 commissioned peace officer or a reserve officer after July 24, 2005,  
14 including any person whose certification has lapsed as a result of a  
15 break of more than twenty-four consecutive months in the officer's  
16 service as a fully commissioned peace officer or reserve officer, the  
17 applicant shall submit to a background investigation including a  
18 check of criminal history, verification of immigrant or citizenship  
19 status as either a citizen of the United States of America or a  
20 lawful permanent resident, a psychological examination, and a  
21 polygraph or similar assessment as administered by the county, city,  
22 or state law enforcement agency, the results of which shall be used  
23 to determine the applicant's suitability for employment as a fully  
24 commissioned peace officer or a reserve officer.

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

29       (ii) 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, in compliance with standards  
33 established in rules of the commission.

34       (iii) The polygraph test shall be administered by an experienced  
35 polygrapher who is a graduate of a polygraph school accredited by the  
36 American polygraph association and in compliance with standards  
37 established in rules of the commission.

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

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

10 (3) The commission shall certify peace officers who have  
11 satisfied, or have been exempted by statute or by rule from, the  
12 basic training requirements of RCW 43.101.200 on or before January 1,  
13 2002. Thereafter, the commission may revoke certification pursuant to  
14 this chapter.

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

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

31 (6) The commission is authorized to receive criminal history  
32 record information that includes nonconviction data for any purpose  
33 associated with employment by the commission or peace officer  
34 certification under this chapter. Dissemination or use of  
35 nonconviction data for purposes other than that authorized in this  
36 section is prohibited.

37 (7) For a national criminal history records check, the commission  
38 shall require fingerprints be submitted and searched through the  
39 Washington state patrol identification and criminal history section.

1 The Washington state patrol shall forward the fingerprints to the  
2 federal bureau of investigation.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.04  
4 RCW to read as follows:

5 "Lawful permanent resident" has the same meaning afforded a  
6 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.  
7 1101(a)(20), as of the effective date of this section.

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