

HOUSE BILL REPORT

ESSB 5424

As Passed House - Amended:

February 28, 2024

Title: An act relating to flexible work for general and limited authority Washington peace officers.

Brief Description: Concerning flexible work for general and limited authority Washington peace officers.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Lovick, Holy, Dhingra, Frame, Keiser, Kuderer, Shewmake, Stanford, Valdez, Warnick and Wellman).

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 3/13/23, 3/23/23 [DPA], 2/14/24, 2/19/24 [DPA];

Appropriations: 2/22/24, 2/26/24 [DPA(CSJR)].

Floor Activity:

Passed House: 2/28/24, 96-0.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Allows general and limited authority Washington law enforcement agencies to adopt flexible work policies.
- Removes the requirement that an officer be employed full-time to be a general or limited authority Washington peace officer.
- Modifies the definition of law enforcement officer in the statutes relating to the Law Enforcement Officers' and Fire Fighters' Retirement System to include officers employed less than full-time.
- Aligns the definitions of reserve officer and specially commissioned

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Washington peace officer in the Washington Mutual Aid Peace Officers Powers Act and the state law governing the Criminal Justice Training Commission.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

Staff: Lena Langer (786-7192).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Community Safety, Justice, & Reentry. Signed by 29 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: David Pringle (786-7310).

Background:

Law Enforcement Agencies and Peace Officers.

In the Washington Mutual Aid Peace Officers Powers Act (Act), a general authority Washington law enforcement agency is defined as any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government, and any agency, department, or division of state government, which has as a primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general. The Washington State Patrol and the Department of Fish and Wildlife are general authority law enforcement agencies.

A general authority Washington peace officer is defined as any full-time, fully compensated and elected, appointed, or employed officer of a general authority law enforcement agency who is commissioned to enforce the criminal laws of the state generally.

A limited authority Washington law enforcement agency is defined as any agency, political subdivision, or unit of local government, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons

committing infractions or violating the traffic or criminal laws relating to limited subject areas. These entities include the Departments of Natural Resources, Social and Health Services, and Corrections; the state Gambling, Lottery, Parks and Recreation, and Utilities and Transportation Commissions; the Liquor and Cannabis Board; the Office of the Insurance Commissioner; and the Office of Independent Investigations.

A limited authority Washington peace officer is defined as any full-time, fully compensated officer of a limited authority law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority peace officer may be a specially commissioned peace officer if otherwise qualified for such status under state law.

The Act defines specially commissioned Washington peace officer as any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the state's criminal laws, who does not qualify as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho.

The Act defines reserve peace officer as an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

Criminal Justice Training Commission.

The Criminal Justice Training Commission (CJTC) establishes the certification standards and process for peace officers and other law enforcement personnel. The CJTC also provides training and educational programs, including hosting the Basic Law Enforcement Academy and the Corrections Officer Academy, as well as advanced training.

The state law governing the CJTC defines reserve officer as any person who does not serve as a peace officer on a full-time basis, but who, when called by an agency into active service, is fully commissioned on the same basis as full-time officers to enforce the criminal laws of this state, including:

- specially commissioned Washington peace officers;
- persons employed as security by public institutions of higher education; and
- persons employed for the purpose of providing security in the kindergarten through twelfth grade (K-12) public school system and who are authorized to use force in fulfilling their responsibilities.

Public Employees' Collective Bargaining Act.

The Public Employees' Collective Bargaining Act (PECBA) allows collective bargaining of wages, hours, and working conditions with employees of cities, counties, and other political

subdivisions. Law enforcement officers have the authority to collectively bargain under the PECBA, as do the officers of the Washington State Patrol and the Department of Fish and Wildlife. The PECBA is administered by the Public Employment Relations Commission.

The Law Enforcement Officers' and Fire Fighters' Retirement System.

The Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) is one of the public employee retirement systems managed by the Department of Retirement Services. The LEOFF 2 provides retirement benefits to full-time, fully compensated law enforcement officers and firefighters employed by the state, cities, counties, and special districts, who were first employed in an eligible position on or after October 1, 1977.

Retirement benefits are available to members at a normal retirement age of 53. Members with at least 20 years of service may take a reduced early retirement benefit beginning at age 50.

The LEOFF 2 benefits are funded by contributions from members, employers, and the state, as well as by investment earnings.

Summary of Amended Bill:

Flexible Work Policies.

Any general authority or limited authority law enforcement agency may adopt a flexible work policy. The policy may:

- allow general and limited authority peace officers to work less than full-time;
- include alternative shift and work schedules that fit the needs of the law enforcement agency; and
- require officers to have a certain number of years of experience or additional training to be eligible for part-time or flexible work.

A flexible work policy may not cause the layoff of, or otherwise displace, any full-time officer. The authorization for a flexible work policy does not alter any laws or workplace policies relating to restrictions on secondary employment for general and limited authority peace officers.

The authorization for flexible work does not alter any existing collective bargaining unit, the provisions of any existing collective bargaining agreement, or the duty of a law enforcement agency to bargain. A law enforcement agency that employs both full-time and part-time officers must include those officers in the same bargaining unit for any collective bargaining agreement.

Definitions.

The definitions of a general and limited authority peace officer in the Act are amended to remove the requirement that an officer be employed full-time.

The definitions of reserve officer and specially commissioned Washington peace officer in the Act and the state law governing the CJTC are aligned. The definition of reserve officer is modified to mean any person who does not serve as a regularly employed, fully compensated peace officer, but who, when called by an agency into active service, is fully commissioned on the same basis as regularly employed, fully compensated officers. The definition of a specially commissioned Washington peace officer is modified to remove from the definition persons employed for security purposes by public institutions of higher education and the K-12 public school system.

Beginning July 1, 2024, a person who is employed less than full-time and who meets the existing criteria is included in the definition of a law enforcement officer eligible for the LEOFF 2.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony (Community Safety, Justice, & Reentry):

(In support) This bill gives law enforcement agencies the opportunity to do more and to bring more people, particularly women, into the profession of law enforcement. The flexible work policy in the bill is a great idea. This bill passed unanimously last year, but did not ultimately get over the finish line. There are struggles in retaining officers and growing the force in the way that is needed. Many of the law enforcement agencies in the state have joined the 30 by 30 pledge, which is a goal that, by the year 2030, 30 percent of the law enforcement workforce will be women. This bill helps support that pledge.

The flexible work policy in the bill benefits individual officers and the overall culture of law enforcement. Part-time officers would be required to maintain the same certification requirements and training as full-time officers. In the medical profession, there are doctors and nurses that work part-time, but maintain the same standards as full-time professionals. This is analogous to the flexible work policy in the bill. There are many challenges to recruitment and retention in the law enforcement profession. The strict hours and traditional work schedules in law enforcement detract from the ability of agencies to attract and retain diverse officers. There are individuals that have to leave law enforcement because of the work schedules, but they are open to working part-time schedules. It takes roughly a year to fill the position when an officer leaves. The flexible work policy in the bill will help fill that gap.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill will be particularly helpful for officers with families and for efforts to increase the number of women employed as law enforcement officers. Supporting this bill should be an easy decision, and it has broad support now. Agencies have the choice to implement part-time positions, they are not required to do so. The full-time requirement is archaic, and there are many potential benefits to departments and communities.

(Opposed) None.

Persons Testifying (Community Safety, Justice, & Reentry): Senator John Lovick, prime sponsor; Lindsey Hueer, Association of Washington Cities; Joe Clark, Bainbridge Island Police; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Testifying (Appropriations): James McMahan, Washington Association of Sheriffs and Police Chiefs; and Sue Rahr.

Persons Signed In To Testify But Not Testifying (Community Safety, Justice, & Reentry): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.