
SENATE BILL 5540

State of Washington

55th Legislature

1997 Regular Session

By Senators Rasmussen, Thibaudeau and Winsley; by request of Washington State Patrol

Read first time 01/30/97. Referred to Committee on Transportation.

1 AN ACT Relating to the delegation of authority by the chief of the
2 Washington state patrol; and amending RCW 43.43.020, 43.43.040,
3 43.43.060, 43.43.070, 43.43.080, 43.43.090, 43.43.100, 43.43.370,
4 43.43.550, 43.43.650, and 43.43.710.

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

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

8 The governor, with the advice and consent of the senate, shall
9 appoint the chief of the Washington state patrol, determine his or her
10 compensation, and may remove him or her at will.

11 The chief shall appoint a sufficient number of competent persons to
12 act as Washington state patrol officers, may remove them for cause, as
13 provided in this chapter, and shall make promotional appointments,
14 determine their compensation, and define their rank and duties, as
15 hereinafter provided.

16 The chief may appoint employees of the Washington state patrol to
17 serve as special deputies, with such restricted police authority as the
18 chief shall designate as being necessary and consistent with their
19 assignment to duty. Such appointment and conferral of authority shall

1 not qualify ((said)) the employees for membership in the Washington
2 state patrol retirement system, nor shall it grant tenure of office as
3 a regular officer of the Washington state patrol.

4 The chief may personally appoint, with the consent of the state
5 treasurer, employees of the office of the state treasurer who are
6 qualified under the standards of the criminal justice training
7 commission, or who have comparable training and experience, to serve as
8 special deputies. The law enforcement powers of any special deputies
9 appointed in the office of the state treasurer shall be designated by
10 the chief and shall be restricted to those powers necessary to provide
11 for state-wide security of the holdings or property of or under the
12 custody of the office of the state treasurer. These appointments may
13 be revoked by the chief at any time and shall be revoked upon the
14 written request of the state treasurer or by operation of law upon
15 termination of the special deputy's employment with the office of the
16 state treasurer or thirty days after the chief who made the appointment
17 leaves office. The chief shall be civilly immune for the acts of
18 ((such)) special deputies. ((Such)) The appointment and conferral of
19 authority shall not qualify ((such)) the employees for membership in
20 the Washington state patrol retirement system, nor shall it grant
21 tenure of office as a regular officer of the Washington state patrol.

22 The chief of the Washington state patrol may delegate a power or
23 duty vested in or transferred to the chief by law, or executive order,
24 to an assistant or subordinate based upon the needs of the patrol, as
25 determined by the chief; but the chief is responsible for the official
26 acts of the officers and employees of the Washington state patrol.

27 **Sec. 2.** RCW 43.43.040 and 1987 c 185 s 17 are each amended to read
28 as follows:

29 (1) The chief of the Washington state patrol or the chief's
30 designee shall relieve from active duty Washington state patrol
31 officers who, while in the performance of their official duties, or
32 while on standby or available for duty, have been or hereafter may be
33 injured or incapacitated to such an extent as to be mentally or
34 physically incapable of active service: PROVIDED, That:

35 (a) Any officer disabled while performing line duty who is found by
36 the chief or the chief's designee to be physically incapacitated shall
37 be placed on disability leave for a period not to exceed six months
38 from the date of injury or the date incapacitated. During this period,

1 the officer shall be entitled to all pay, benefits, insurance, leave,
2 and retirement contributions awarded to an officer on active status,
3 less any compensation received through the department of labor and
4 industries. No such disability leave shall be approved until an
5 officer has been unavailable for duty for more than five consecutive
6 work days. Prior to the end of the six-month period, the chief or the
7 chief's designee shall either place the officer on disability status or
8 return the officer to active status.

9 For the purposes of this section, "line duty" is active service
10 (~~which~~) that encompasses either the traffic law enforcement duties
11 (~~and/or~~) or other law enforcement responsibilities, or both, of the
12 state patrol. These activities encompass all enforcement practices of
13 the laws, accident and criminal investigations, or actions requiring
14 physical exertion or exposure to hazardous elements.

15 The chief shall define by rule the situations where a disability
16 has occurred during line duty;

17 (b) Benefits under this section for a disability that is incurred
18 while in other employment will be reduced by any amount the officer
19 receives or is entitled to receive from workers' compensation, social
20 security, group insurance, other pension plan, or any other similar
21 source provided by another employer on account of the same disability;

22 (c) An officer injured while engaged in wilfully tortious or
23 criminal conduct shall not be entitled to disability benefits under
24 this section; and

25 (d) Should a disability beneficiary whose disability was not
26 incurred in line of duty, prior to attaining age fifty, engage in a
27 gainful occupation, the chief or the chief's designee shall reduce the
28 amount of his or her retirement allowance to an amount which when added
29 to the compensation earned by him or her in such occupation shall not
30 exceed the basic salary currently being paid for the rank the retired
31 officer held at the time he or she was disabled. All such disability
32 beneficiaries under age fifty shall file with the chief every six
33 months a signed and sworn statement of earnings and any person who
34 shall knowingly swear falsely on such statement shall be subject to
35 prosecution for perjury. Should the earning capacity of such
36 beneficiary be further altered, the chief or the chief's designee may
37 further alter his or her disability retirement allowance as indicated
38 above. The failure of any officer to file the required statement of
39 earnings shall be cause for cancellation of retirement benefits.

1 (2) Officers on disability status shall receive one-half of their
2 compensation at the existing wage, during the time the disability
3 continues in effect, less any compensation received through the
4 department of labor and industries. They shall be subject to mental or
5 physical examination at any state institution or otherwise under the
6 direction of the chief of the patrol or the chief's designee at any
7 time during such relief from duty to ascertain whether or not they are
8 able to resume active duty.

9 **Sec. 3.** RCW 43.43.060 and 1984 c 141 s 1 are each amended to read
10 as follows:

11 The chief of the Washington state patrol or the chief's designee
12 may suspend or demote any officer with probationary status, without
13 preferring charges against the officer, and without a hearing.

14 **Sec. 4.** RCW 43.43.070 and 1984 c 141 s 2 are each amended to read
15 as follows:

16 Discharge of any officer with probationary status and discharge,
17 demotion, or suspension of any officer with nonprobationary status
18 shall be only for cause, which shall be clearly stated in a written
19 complaint, sworn to by the person preferring the charges, and served
20 upon the officer complained of.

21 Upon being so served, any such officer shall be entitled to a
22 public hearing before a trial board consisting of two Washington state
23 patrol officers of the rank of captain, and one officer of equal rank
24 with the officer complained of, who shall be selected by the chief of
25 the Washington state patrol or the chief's designee by lot from the
26 roster of the patrol. In the case of complaint by an officer, such
27 officer shall not be a member of the trial board.

28 **Sec. 5.** RCW 43.43.080 and 1989 c 28 s 1 are each amended to read
29 as follows:

30 When the complaint served upon an officer is of a criminal nature
31 calling for the discharge of the officer, the chief of the patrol or
32 the chief's designee may immediately suspend the officer without pay
33 pending a trial board hearing. The board shall be convened no later
34 than forty-five days from the date of suspension. However, this does
35 not preclude the granting of a mutually agreed upon extension; in such
36 cases the officer shall remain on suspension without pay.

1 An officer complained of may waive a hearing and accept the
2 proposed discipline by written notice to the chief of the patrol.

3 **Sec. 6.** RCW 43.43.090 and 1989 c 28 s 2 are each amended to read
4 as follows:

5 At the hearing, an administrative law judge appointed under chapter
6 34.12 RCW shall be the presiding officer, and shall make all necessary
7 rulings in the course of the hearing, but shall not be entitled to
8 vote.

9 The complainant and the officer complained of may submit evidence,
10 and be represented by counsel, and a full and complete record of the
11 proceedings, and all testimony, shall be taken down by a stenographer.

12 After hearing, the findings of the trial board shall be submitted
13 to the chief or the chief's designee. Such findings shall be final if
14 the charges are not sustained. In the event the charges are sustained,
15 the chief or the chief's designee may determine the proper disciplinary
16 action and declare it by written order served upon the officer
17 complained of.

18 **Sec. 7.** RCW 43.43.100 and 1984 c 141 s 4 are each amended to read
19 as follows:

20 Any officer subjected to disciplinary action may, within ten days
21 after the service of the order upon the officer, apply to the superior
22 court of Thurston county for a writ of review to have the
23 reasonableness and lawfulness of the order inquired into and
24 determined.

25 The superior court shall review the determination of the chief of
26 the Washington state patrol or the chief's designee in a summary
27 manner, based upon the record of the hearing before the trial board,
28 and shall render its decision within ninety days, either affirming or
29 reversing the order of the chief or the chief's designee, or remanding
30 the matter to the chief or the chief's designee for further action. A
31 transcript of the trial board hearing shall be provided to the court by
32 the state patrol after being paid for by the officer subjected to
33 disciplinary action. However, if the officer prevails before the
34 court, the state patrol shall reimburse the officer for the cost of the
35 transcript.

1 **Sec. 8.** RCW 43.43.370 and 1965 c 8 s 43.43.370 are each amended to
2 read as follows:

3 The chief of the Washington state patrol or the chief's designee
4 may appoint such staff or technical officers as he or she deems
5 necessary for the efficient operation of the patrol, and he or she may
6 assign whatever rank he or she deems necessary to such staff or
7 technical officers for the duration of their service as such.

8 Staff or technical officers may be returned to their line rank or
9 position whenever the chief or the chief's designee so desires. Staff
10 or technical officers without line command assignment and whose duties
11 are of a special or technical nature shall hold their staff or
12 technical rank on a continuing probationary basis; however, such staff
13 or technical officers, if otherwise eligible, shall not be prevented
14 from taking the line promotion examinations, and qualifying for
15 promotion whenever the examinations may be held.

16 If a staff or technical officer returns to line operations he or
17 she shall return in the rank that he or she holds in the line command,
18 unless promoted to a higher rank through examination and appointment as
19 (~~herein~~) provided(~~(:—PROVIDED,)~~) in this section. However, nothing
20 contained (~~herein~~) in this section shall be construed as giving the
21 chief or the chief's designee the right to demote or to reduce the rank
22 of any officer of the patrol who was holding such office on April 1,
23 1949.

24 **Sec. 9.** RCW 43.43.550 and 1984 c 217 s 1 are each amended to read
25 as follows:

26 (1) The chief of the Washington state patrol or the chief's
27 designee shall designate twenty-four or more officers as traffic safety
28 education officers. The chief of the Washington state patrol or the
29 chief's designee shall make the designations in a manner designed to
30 ensure that the programs under subsection (2) of this section are
31 reasonably available in all areas of the state.

32 (2) The chief of the Washington state patrol or the chief's
33 designee may permit these traffic safety education officers to appear
34 in their off-duty hours in uniform to give programs in schools or the
35 community on the duties of the state patrol, traffic safety, or crime
36 prevention.

1 (3) The traffic safety education officers may accept such pay and
2 reimbursement of expenses as are approved by the state patrol from the
3 sponsoring organization.

4 (4) The state patrol is encouraged to work with community
5 organizations to set up these programs state-wide.

6 **Sec. 10.** RCW 43.43.650 and 1970 ex.s. c 63 s 6 are each amended to
7 read as follows:

8 The chief of the Washington state patrol or the chief's designee
9 may employ such criminalists, chemists, clerical and other personnel as
10 are necessary for the conduct of the affairs of the drug control
11 assistance unit.

12 **Sec. 11.** RCW 43.43.710 and 1995 c 369 s 13 are each amended to
13 read as follows:

14 Information contained in the files and records of the section
15 relative to the commission of any crime by any person shall be
16 considered privileged and shall not be made public or disclosed for any
17 personal purpose or in any civil court proceedings except upon a
18 written order of the judge of a court wherein such civil proceedings
19 are had. All information contained in the files of the section
20 relative to criminal records and personal histories of persons arrested
21 for the commission of a crime shall be available to all criminal
22 justice agencies upon the filing of an application as provided in RCW
23 43.43.705.

24 Although no application for information has been made to the
25 section as provided in RCW 43.43.705, the section may transmit such
26 information in the chief's or the chief's designee's discretion, to
27 such agencies as are authorized by RCW 43.43.705 to make application
28 for it.

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