

---

SENATE BILL 5112

---

State of Washington

53rd Legislature

1993 Regular Session

By Senators Drew and von Reichbauer

Read first time 01/13/93. Referred to Committee on Government Operations.

1 AN ACT Relating to hiring procedures by cities and towns; and  
2 amending RCW 35.24.020, 35.27.070, 35.27.130, 41.08.040, and 41.12.040.

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

4 **Sec. 1.** RCW 35.24.020 and 1987 c 3 s 9 are each amended to read as  
5 follows:

6 The government of a third class city shall be vested in a mayor, a  
7 city council of seven members, a city attorney, a clerk, a treasurer,  
8 all elective; and a chief of police, municipal judge, city engineer,  
9 street superintendent, health officer and such other appointive  
10 officers as may be provided for by statute or ordinance: PROVIDED,  
11 That the council may enact an ordinance providing for the appointment  
12 of the city clerk, city attorney, and treasurer by the mayor, which  
13 appointment shall be subject to confirmation by a majority vote of the  
14 city council. Such ordinance shall be enacted and become effective not  
15 later than thirty days prior to the first day allowed for filing  
16 declarations of candidacy for such offices when such offices are  
17 subject to an approaching city primary election. Elective incumbent  
18 city clerks, city attorneys, and city treasurers shall serve for the  
19 remainder of their unexpired term notwithstanding any appointment made

1 pursuant to RCW 35.24.020 and 35.24.050. If a free public library and  
2 reading room is established, five library trustees shall be appointed.  
3 The city council by ordinance shall prescribe the duties and fix the  
4 compensation of all officers and employees: PROVIDED, That the  
5 provisions of any such ordinance shall not be inconsistent with any  
6 statute: PROVIDED FURTHER, That where the city council finds that the  
7 appointment of a full time city engineer is unnecessary, it may in lieu  
8 of such appointment, by resolution provide for the performance of  
9 necessary engineering services on either a part time, temporary or  
10 periodic basis by a qualified engineering firm, pursuant to any  
11 reasonable contract.

12 The mayor shall appoint and at his or her pleasure may remove all  
13 appointive officers except as otherwise provided herein: PROVIDED,  
14 That municipal judges shall be removed only upon conviction of  
15 misconduct or malfeasance in office, or because of physical or mental  
16 disability rendering ((him)) the judge incapable of performing the  
17 duties of his or her office. Every appointment or removal must be in  
18 writing signed by the mayor and filed with the city clerk.

19 **Sec. 2.** RCW 35.27.070 and 1987 c 3 s 12 are each amended to read  
20 as follows:

21 The government of a town shall be vested in a mayor and a council  
22 consisting of five members and a treasurer, all elective; the mayor  
23 shall appoint a clerk and a marshal; and may appoint a town attorney,  
24 pound master, street superintendent, a civil engineer, and such police  
25 and other subordinate officers and employees as may be provided for by  
26 ordinance. All appointive officers and employees shall hold office at  
27 the pleasure of the mayor and shall not be subject to confirmation by  
28 the town council.

29 **Sec. 3.** RCW 35.27.130 and 1990 c 212 s 2 are each amended to read  
30 as follows:

31 The mayor and members of the town council may be reimbursed for  
32 actual expenses incurred in the discharge of their official duties upon  
33 presentation of a claim therefor and its allowance and approval by  
34 resolution of the town council. The mayor and members of the council  
35 may also receive such salary as the council may fix by ordinance.

36 The treasurer and treasurer-clerk shall severally receive at stated  
37 times a compensation to be fixed by ordinance.

1 The compensation of all other officers and employees shall be fixed  
2 from time to time by the council.

3 Any town that provides a pension for any of its employees under a  
4 plan not administered by the state must notify the state auditor of the  
5 existence of the plan at the time of an audit of the town by the  
6 auditor. No town may establish a pension plan for its employees that  
7 is not administered by the state, except that any defined contribution  
8 plan in existence as of January 1, 1990, is deemed to have been  
9 authorized. No town that provides a defined contribution plan for its  
10 employees as authorized by this section may make any material changes  
11 in the terms or conditions of the plan after June 7, 1990.

12 **Sec. 4.** RCW 41.08.040 and 1973 1st ex.s. c 154 s 60 are each  
13 amended to read as follows:

14 Immediately after appointment the commission shall organize by  
15 electing one of its members ((~~chairman~~)) chair and hold regular  
16 meetings at least once a month, and such additional meetings as may be  
17 required for the proper discharge of their duties.

18 They shall appoint a secretary and chief examiner, who shall keep  
19 the records of the commission, preserve all reports made to it,  
20 superintend and keep a record of all examinations held under its  
21 direction, and perform such other duties as the commission may  
22 prescribe.

23 The secretary and chief examiner shall be appointed as a result of  
24 competitive examination which examination may be either original and  
25 open to all properly qualified citizens of the city, town or  
26 municipality, or promotional and limited to persons already in the  
27 service of the fire department or of the fire department and other  
28 departments of said city, town or municipality, as the commission may  
29 decide. The secretary and chief examiner may be subject to suspension,  
30 reduction or discharge in the same manner and subject to the same  
31 limitations as are provided in the case of members of the fire  
32 department. It shall be the duty of the civil service commission:

33 (1) To make suitable rules and regulations not inconsistent with  
34 the provisions of this chapter. Such rules and regulations shall  
35 provide in detail the manner in which examinations may be held, and  
36 appointments, promotions, transfers, reinstatements, demotions,  
37 suspensions and discharges shall be made, and may also provide for any  
38 other matters connected with the general subject of personnel

1 administration, and which may be considered desirable to further carry  
2 out the general purposes of this chapter, or which may be found to be  
3 in the interest of good personnel administration. Such rules and  
4 regulations may be changed from time to time. The rules and  
5 regulations and any amendments thereof shall be printed, mimeographed  
6 or multigraphed for free public distribution. Such rules and  
7 regulations may be changed from time to time.

8 (2) All tests shall be practical, and shall consist only of  
9 subjects which will fairly determine the capacity of persons examined  
10 to perform duties of the position to which appointment is to be made,  
11 and may include tests of physical fitness and/or of manual skill.

12 (3) The rules and regulations adopted by the commission shall  
13 provide for a credit (~~(of ten percent)~~) in accordance with RCW  
14 41.04.010 in favor of all applicants for appointment under civil  
15 service, who, in time of war, or in any expedition of the armed forces  
16 of the United States, have served in and been honorably discharged from  
17 the armed forces of the United States, including the army, navy, and  
18 marine corps and the American Red Cross. These credits apply to  
19 entrance examinations only.

20 (4) The commission shall make investigations concerning and report  
21 upon all matters touching the enforcement and effect of the provisions  
22 of this chapter, and the rules and regulations prescribed hereunder;  
23 inspect all institutions, departments, offices, places, positions and  
24 employments affected by this chapter, and ascertain whether this  
25 chapter and all such rules and regulations are being obeyed. Such  
26 investigations may be made by the commission or by any commissioner  
27 designated by the commission for that purpose. Not only must these  
28 investigations be made by the commission as aforesaid, but the  
29 commission must make like investigation on petition of a citizen, duly  
30 verified, stating that irregularities or abuses exist, or setting forth  
31 in concise language, in writing, the necessity for such investigation.  
32 In the course of such investigation the commission or designated  
33 commissioner, or chief examiner, shall have the power to administer  
34 oaths, subpoena and require the attendance of witnesses and the  
35 production by them of books, papers, documents and accounts  
36 appertaining to the investigation and also to cause the deposition of  
37 witnesses residing within or without the state to be taken in the  
38 manner prescribed by law for like depositions in civil actions in the  
39 superior court; and the oaths administered hereunder and the subpoenas

1 issued hereunder shall have the same force and effect as the oaths  
2 administered by a superior court judge in his or her judicial capacity;  
3 and the failure upon the part of any person so subpoenaed to comply  
4 with the provisions of this section shall be deemed a violation of this  
5 chapter, and punishable as such.

6 (5) All hearings and investigations before the commission, or  
7 designated commissioner, or chief examiner, shall be governed by this  
8 chapter and by rules of practice and procedure to be adopted by the  
9 commission, and in the conduct thereof neither the commission, nor  
10 designated commissioner shall be bound by the technical rules of  
11 evidence. No informality in any proceedings or hearing, or in the  
12 manner of taking testimony before the commission or designated  
13 commissioner, shall invalidate any order, decision, rule or regulation  
14 made, approved or confirmed by the commission: PROVIDED, HOWEVER, That  
15 no order, decision, rule or regulation made by any designated  
16 commissioner conducting any hearing or investigation alone shall be of  
17 any force or effect whatsoever unless and until concurred in by at  
18 least one of the other two members.

19 (6) To hear and determine appeals or complaints respecting the  
20 administrative work of the personnel department; appeals upon the  
21 allocation of positions; the rejection of an examination, and such  
22 other matters as may be referred to the commission.

23 (7) Establish and maintain in card or other suitable form a roster  
24 of officers and employees.

25 (8) Provide for, formulate and hold competitive tests to determine  
26 the relative qualifications of persons who seek employment in any class  
27 or position and as a result thereof establish eligible lists for the  
28 various classes of positions, and to provide that persons laid off  
29 because of curtailment of expenditures, reduction in force, and for  
30 like causes, head the list in the order of their seniority, to the end  
31 that they shall be the first to be reemployed.

32 (9) When a vacant position is to be filled, to certify to the  
33 appointing authority, on written request, the name of the person  
34 highest on the eligible list for the class. If there are no such  
35 lists, to authorize provisional or temporary appointment list of such  
36 class. Such temporary or provisional appointment shall not continue  
37 for a period longer than four months; nor shall any person receive more  
38 than one provisional appointment or serve more than four months as a  
39 provisional appointee in any one fiscal year.

1 (10) Keep such records as may be necessary for the proper  
2 administration of this chapter.

3 **Sec. 5.** RCW 41.12.040 and 1937 c 13 s 5 are each amended to read  
4 as follows:

5 Immediately after appointment the commission shall organize by  
6 electing one of its members ((~~chairman~~)) chair and hold regular  
7 meetings at least once a month, and such additional meetings as may be  
8 required for the proper discharge of their duties.

9 They shall appoint a secretary and chief examiner, who shall keep  
10 the records for the commission, preserve all reports made to it,  
11 superintend and keep a record of all examinations held under its  
12 direction, and perform such other duties as the commission may  
13 prescribe.

14 The secretary and chief examiner shall be appointed as a result of  
15 competitive examination which examination may be either original and  
16 open to all properly qualified citizens of the city, town, or  
17 municipality, or promotional and limited to persons already in the  
18 service of the police department or of the police department and other  
19 departments of ((~~said~~)) the city, town, or municipality, as the  
20 commission may decide. The secretary and chief examiner may be subject  
21 to suspension, reduction, or discharge in the same manner and subject  
22 to the same limitations as are provided in the case of members of the  
23 police department. It shall be the duty of the civil service  
24 commission:

25 (1) To make suitable rules and regulations not inconsistent with  
26 the provisions of this chapter. Such rules and regulations shall  
27 provide in detail the manner in which examinations may be held, and  
28 appointments, promotions, transfers, reinstatements, demotions,  
29 suspensions, and discharges shall be made, and may also provide for any  
30 other matters connected with the general subject of personnel  
31 administration, and which may be considered desirable to further carry  
32 out the general purposes of this chapter, or which may be found to be  
33 in the interest of good personnel administration. Such rules and  
34 regulations may be changed from time to time. The rules and  
35 regulations and any amendments thereof shall be printed, mimeographed,  
36 or multigraphed for free public distribution. Such rules and  
37 regulations may be changed from time to time;

1 (2) All tests shall be practical, and shall consist only of  
2 subjects which will fairly determine the capacity of persons examined  
3 to perform duties of the position to which appointment is to be made,  
4 and may include tests of physical fitness and/or of manual skill;

5 (3) The rules and regulations adopted by the commission shall  
6 provide for a credit (~~(of ten percent)~~) in accordance with RCW  
7 41.04.010 in favor of all applicants for appointment under civil  
8 service, who, in time of war, or in any expedition of the armed forces  
9 of the United States, have served in and been honorably discharged from  
10 the armed forces of the United States, including the army, navy, and  
11 marine corps and the American Red Cross. These credits apply to  
12 entrance examinations only;

13 (4) The commission shall make investigations concerning and report  
14 upon all matters touching the enforcement and effect of the provisions  
15 of this chapter, and the rules and regulations prescribed hereunder;  
16 inspect all institutions, departments, offices, places, positions, and  
17 employments affected by this chapter, and ascertain whether this  
18 chapter and all such rules and regulations are being obeyed. Such  
19 investigations may be made by the commission or by any commissioner  
20 designated by the commission for that purpose. Not only must these  
21 investigations be made by the commission (~~(as aforesaid)~~), but the  
22 commission must make like investigation on petition of a citizen, duly  
23 verified, stating that irregularities or abuses exist, or setting forth  
24 in concise language, in writing, the necessity for such investigation.  
25 In the course of such investigation the commission or designated  
26 commissioner, or chief examiner, shall have the power to administer  
27 oaths, subpoena and require the attendance of witnesses and the  
28 production by them of books, papers, documents, and accounts  
29 appertaining to the investigation, and also to cause the deposition of  
30 witnesses residing within or without the state to be taken in the  
31 manner prescribed by law for like depositions in civil actions in the  
32 superior court; and the oaths administered hereunder and the subpoenas  
33 issued hereunder shall have the same force and effect as the oaths  
34 administered by a superior court judge in his or her judicial capacity;  
35 and the failure upon the part of any person so subpoenaed to comply  
36 with the provisions of this section shall be deemed a violation of this  
37 chapter, and punishable as such;

38 (5) Hearings and Investigations: How conducted. All hearings and  
39 investigations before the commission, or designated commissioner, or

1 chief examiner, shall be governed by this chapter and by rules of  
2 practice and procedure to be adopted by the commission, and in the  
3 conduct thereof neither the commission, nor designated commissioner  
4 shall be bound by the technical rules of evidence. No informality in  
5 any proceedings or hearing, or in the manner of taking testimony before  
6 the commission or designated commissioner, shall invalidate any order,  
7 decision, rule or regulation made, approved or confirmed by the  
8 commission: PROVIDED, HOWEVER, That no order, decision, rule or  
9 regulation made by any designated commissioner conducting any hearing  
10 or investigation alone shall be of any force or effect whatsoever  
11 unless and until concurred in by at least one of the other two members;

12 (6) To hear and determine appeals or complaints respecting the  
13 administrative work of the personnel department; appeals upon the  
14 allocation of positions; the rejection of an examination, and such  
15 other matters as may be referred to the commission;

16 (7) Establish and maintain in card or other suitable form a roster  
17 of officers and employees;

18 (8) Provide for, formulate and hold competitive tests to determine  
19 the relative qualifications of persons who seek employment in any class  
20 or position and as a result thereof establish eligible lists for the  
21 various classes of positions, and to provide that (~~men~~) persons laid  
22 off because of curtailment of expenditures, reduction in force, and for  
23 like causes, head the list in the order of their seniority, to the end  
24 that they shall be the first to be reemployed;

25 (9) When a vacant position is to be filled, to certify to the  
26 appointing authority, on written request, the name of the person  
27 highest on the eligible list for the class. If there are no such  
28 lists, to authorize provisional or temporary appointment list of such  
29 class. Such temporary or provisional appointment shall not continue  
30 for a period longer than four months; nor shall any person receive more  
31 than one provisional appointment or serve more than four months as  
32 provisional appointee in any one fiscal year;

33 (10) Keep such records as may be necessary for the proper  
34 administration of this chapter.

--- END ---