

HOUSE BILL REPORT

SSB 5424

As Reported by House Committee On:
Community Safety, Justice, & Reentry

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].

Brief Summary of Substitute Bill
(As Amended By Committee)

- Authorizes law enforcement agencies to adopt flexible work policies.
- Allows part-time officers to be general or limited authority peace officers.
- Includes part-time officers in the Law Enforcement Officers' and Fire Fighters' Retirement System.

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.

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.

Staff: Martha Wehling (786-7067).

Background:

Law Enforcement Personnel and Peace Officers.

For purposes of the Washington Mutual Aid Peace Officers Powers Act, a general authority law enforcement agency is a state or local governmental entity with the primary purpose of detecting and apprehending persons committing infractions or violating traffic or criminal laws. The Washington State Patrol and the Department of Fish and Wildlife are general authority law enforcement agencies.

A limited authority law enforcement agency is a state or local government entity that apprehends or detects persons committing infractions or violating traffic or criminal laws related to limited subject areas. These entities include: the departments of Natural Resources, Social and Health Services, and Corrections; the 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.

There are multiple definitions of peace officers. Law enforcement personnel include any general authority peace officers. A general authority peace officer is a full-time officer of a state or local government or agency whose primary function is violations of traffic or criminal laws. Corrections personnel, corrections officers, criminal justice personnel, federal peace officers, specially commissioned peace officers, sworn peace officers, reserve peace officers, and tribal police officers are separately defined. A reserve peace officer is not employed full-time, but may be called by an agency into active service to enforce criminal laws.

Collective Bargaining and Retirement Plan.

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, which is administered by the Public Employment Relations Commission.

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. It provides retirement benefits to certain law enforcement officers and firefighters employed by the state, cities, counties, and special districts. In order to participate in LEOFF 2, a law enforcement officer must be employed full-time, fully compensated, and commissioned and employed to enforce Washington's criminal laws.

For purposes of LEOFF 2, law enforcement officers include:

- deputy sheriffs who have completed a civil service exam, or certain unclassified staff;
- public safety officers whose duties include police or fire duties in a city or town with a population less than 10,000, when employment began after January 1, 1993;

- executive secretaries of labor guilds, associations, or organizations if the secretary has five years of membership in a retirement system for police pensions in first-class cities; and
- full-time city police officers when appointed to a position created by a city charter provision or local legislative body.

A person whose position is clerical or secretarial, and not commissioned, is not a law enforcement officer.

Summary of Amended Bill:

Flexible Work Policies.

Any general authority or limited authority law enforcement agency may adopt a flexible work policy that fits the needs of the employing agency. The policy may:

- allow a peace officer to work less than full-time or an alternative schedule;
- allow a peace officer to work less than full-time when feasible;
- include alternative shift and work schedules;
- supplement work during peak hours with part-time officers; and
- require its officers to have a certain number of years of experience or additional training to be eligible for flexible work.

The flexible work policy may not alter any laws or workplace policies relating to restrictions on secondary employment. If a flexible work policy is adopted, it may not cause a reduction in full-time officers.

The authorization for flexible work does not alter 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.

Part-Time Law Enforcement Officers.

The definition of a general or limited authority peace officer under the Washington Mutual Aid Peace Officer Powers Act is amended to remove the requirement that an officer be employed full-time.

Beginning July 1, 2023, a person who is employed part-time, and who meets the existing criteria, is included in the definition of a law enforcement officer eligible for LEOFF 2.

Amended Bill Compared to Substitute Bill:

The amended bill clarifies the category of city police officers in the definition of law enforcement officers in the LEOFF 2 retirement system to allow part-time city police officers to participate in the retirement system.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Flexible work schedules are intended to increase diversity and increase and retain female and senior officers who have value but cannot maintain a 40-hour work week. Flexible schedules would also allow officers to pursue additional education or care for family members with special needs. Many jurisdictions have policies for non-patrol assignments, but not for officers with young children. This forces female officers to choose between their safety and raising a family. While some women raise children, work a patrol shift, and manage call-outs, many female officers leave the profession, which depletes the officers' years of training, experience, and expertise from the employers. It takes a lot of time and money to get an officer trained, equipped, and experience to be efficient on the street. If a flexible work schedule had existed, those female officers might have stayed.

The goal is to increase female officers to 30 percent by 2030, from the current level of 12 percent. Analogous efforts in medicine, tech, and the military, and empirical research, show the unique importance of flexible and part-time work, especially on retention. The number one request from hundreds of women surveyed in focus groups is more support for flexible schedules to avoid needing to choose between family and career. Female officers use less force, receive fewer community complaints, provide better outcomes for victims of sexual assault, and fire their service weapons less often. Improving retention of women officers should improve public safety.

There is currently a crisis in staffing, for both recruitment and retention, and by creating flexibility, people will be attracted to a profession that recognizes the wellness of the whole employee and the pool of recruitment will be extended to more people. Officers grapple with stress and burnout, and flexible work might help address that while retaining expertise on the job.

The busiest time of week for law enforcement is Friday from 4 p.m. to Sunday at 6 p.m. More officers are needed for this time period, and additional staffing in this period provides a great opportunity for flexible work schedules. Allowing part-time status for a couple of years would allow fully trained officers to make their lives more manageable, and by reducing sleep deprivation, makes the officers and the community safer. It will also save taxpayers money and improve call responses if more officers are able to supplement Friday and Saturday night shifts. It will be beneficial to agencies, who can increase staffing on busy days and retain seasoned officers. Allowing the part-time officer to remain eligible for LEOFF 2 is a good, sensible policy. Allowing officers to depart in stages, rather than retire

abruptly, will also mitigate the retirement crisis and improve mentorship.

(Opposed) It is a good idea to support workers and labor, but police culture is about management. Flexible hiring should be limited to agencies in compliance with key accountability measures that address discriminatory policing. This bill would change the look and feel of staffing, but the testifier can not support flexible hiring that just results in more of the same from management. Agencies that want to use flexible hiring should be required to comply with requirements from the Criminal Justice Training Commission relating to misconduct, racial policing, firearms, immigration, and citizenship.

(Other) Washington has been 51st in the nation for the number of officers per capita for 12 years. There is a 30 by 30 goal, to have women constitute 30 percent of the workforce by 2030. A flexible work schedule is already permitted, but there are issues with part-time officers. Pension and retirement issues are subject to the collective bargaining agreement.

Persons Testifying: (In support) Senator John Lovick, prime sponsor; Lindsey Hueer, Association of Washington Cities; Sue Rahr; Maureen McGough, The Policing Project at New York University Law and The 30x30 Initiative to Advance Women in Policing; and Carol Cummings.

(Opposed) Leslie Cushman, Washington Coalition for Police Accountability.

(Other) James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.