

**HOUSE AMENDMENTS TO
SENATE BILL 62
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON JUDICIARY

June 27

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and insert
2 “creating new provisions; and amending ORS 181.640, 181.661 and 181.662.”

3 In line 25, after “shall” insert “suspend and”.

4 On page 3, after line 6, insert:

5 **“SECTION 1a. If Senate Bill 63 becomes law, section 1 of this 2005 Act (amending ORS**
6 **181.640) is repealed and ORS 181.640, as amended by section 3, chapter _____, Oregon Laws**
7 **2005 (Enrolled Senate Bill 63), is amended to read:**

8 “181.640. (1) In accordance with any applicable provision of ORS chapter 183, to promote
9 enforcement of law and fire services by improving the competence of public safety personnel and
10 their support staffs, and in consultation with the agencies for which the Board on Public Safety
11 Standards and Training and Department of Public Safety Standards and Training provide standards,
12 certification, accreditation and training:

13 “(a) The department shall recommend and the board shall establish by rule reasonable minimum
14 standards of physical, emotional, intellectual and moral fitness for public safety personnel and in-
15 structors.

16 “(b) The department shall recommend and the board shall establish by rule reasonable minimum
17 training for all levels of professional development, basic through executive, including but not limited
18 to courses or subjects for instruction and qualifications for public safety personnel and instructors.
19 Training requirements shall be consistent with the funding available in the department’s
20 legislatively approved budget.

21 “(c) The department, in consultation with the board, shall establish by rule a procedure or pro-
22 cedures to be used by law enforcement units, public or private safety agencies or the Oregon Youth
23 Authority to determine whether public safety personnel meet minimum standards or have minimum
24 training.

25 “(d) Subject to such terms and conditions as the department may impose, the department shall
26 certify instructors and public safety personnel, except youth correction officers, as being qualified
27 under the rules established by the board.

28 “(e) The department shall deny applications for training and deny, **suspend** and revoke certif-
29 ication in the manner provided in ORS 181.661, 181.662 and 181.664 (1).

30 “(f) The department shall cause inspection of standards and training for instructors and public
31 safety personnel, except youth correction officers, to be made.

32 “(g) The department may recommend and the board may establish by rule accreditation stan-
33 dards, levels and categories for mandated and nonmandated public safety personnel training or ed-
34 ucational programs. The department and board, in consultation, may establish to what extent

1 training or educational programs provided by an accredited university, college, community college
2 or public safety agency may serve as equivalent to mandated training or as a prerequisite to man-
3 dated training. Programs offered by accredited universities, colleges or community colleges may be
4 considered equivalent to mandated training only in academic areas.

5 “(2) The department may:

6 “(a) Contract or otherwise cooperate with any person or agency of government for the pro-
7 curement of services or property;

8 “(b) Accept gifts or grants of services or property;

9 “(c) Establish fees for determining whether a training or educational program meets the ac-
10 creditation standards established under subsection (1)(g) of this section;

11 “(d) Maintain and furnish to law enforcement units and public and private safety agencies in-
12 formation on applicants for appointment as instructors or public safety personnel, except youth
13 correction officers, in any part of the state; and

14 “(e) Establish fees to allow recovery of the full costs incurred in providing services to private
15 entities or in providing services as experts or expert witnesses.

16 “(3) The department, in consultation with the board, may:

17 “(a) Upon the request of a law enforcement unit or public safety agency, conduct surveys or aid
18 cities and counties to conduct surveys through qualified public or private agencies and assist in the
19 implementation of any recommendations resulting from such surveys.

20 “(b) Upon the request of law enforcement units or public safety agencies, conduct studies and
21 make recommendations concerning means by which requesting units can coordinate or combine their
22 resources.

23 “(c) Stimulate research by public and private agencies to improve police, fire service, cor-
24 rections and adult parole and probation administration and law enforcement.

25 “(d) Provide grants from funds appropriated or available therefor, to law enforcement units,
26 public safety agencies, special districts, cities, *[and]* counties **and private entities** to carry out the
27 provisions of this subsection.

28 “(e) Provide optional training programs for persons who operate lockups. The term ‘lockup’ has
29 the meaning given it in ORS 169.005.

30 “(f) Provide optional training programs for public safety personnel and their support staffs.

31 “(g) Enter into agreements with federal, state or other governmental agencies to provide train-
32 ing or other services in exchange for receiving training, fees or services of generally equivalent
33 value.

34 “(h) Upon the request of a law enforcement unit or public safety agency employing public safety
35 personnel, except youth correction officers, grant an officer, fire service professional, telecommu-
36 nicator or emergency medical dispatcher a multidiscipline certification consistent with the minimum
37 requirements adopted or approved by the board. Multidiscipline certification authorizes an officer,
38 fire service professional, telecommunicator or emergency medical dispatcher to work in any of the
39 disciplines for which the officer, fire service professional, telecommunicator or emergency medical
40 dispatcher is certified. The provisions of ORS 181.652, 181.653 and 181.667 relating to lapse of cer-
41 tification do not apply to an officer or fire service professional certified under this paragraph as
42 long as the officer or fire service professional maintains full-time employment in one of the certified
43 disciplines and meets the training standards established by the board.

44 “(4) Pursuant to ORS chapter 183, the board, in consultation with the department, shall adopt
45 rules necessary to carry out the board’s duties and powers.

1 “(5) Pursuant to ORS chapter 183, the department, in consultation with the board, shall adopt
2 rules necessary to carry out the department’s duties and powers.

3 “(6) For efficiency, board and department rules may be adopted jointly as a single set of com-
4 bined rules with the approval of the board and the department.

5 “(7) The department shall obtain approval of the board before submitting its legislative concepts,
6 Emergency Board request or budget requests to the Oregon Department of Administrative Services.

7 “**SECTION 2.** ORS 181.662 is amended to read:

8 “181.662. (1) The Department of Public Safety Standards and Training may deny, **suspend** or
9 revoke the certification of any instructor or public safety officer, except a youth correction officer
10 or fire service professional, after written notice and hearing consistent with the provisions of ORS
11 181.661, based upon a finding that:

12 “(a) The public safety officer or instructor falsified any information submitted on the application
13 for certification or on any documents submitted to the Board on Public Safety Standards and
14 Training or the department.

15 “(b) The public safety officer or instructor has been convicted of a crime in this state or any
16 other jurisdiction.

17 “(c) The public safety officer or instructor does not meet the applicable minimum standards,
18 minimum training or the terms and conditions established under ORS 181.640 (1)(a) to (d).

19 “**(2) The department shall deny, suspend or revoke the certification of a fire service**
20 **professional, after written notice and hearing consistent with the provisions of ORS 181.661,**
21 **based upon a finding that the fire service professional has been convicted in this state of a**
22 **crime listed in ORS 137.700 or in any other jurisdiction of a crime that, if committed in this**
23 **state, would constitute a crime listed in ORS 137.700.**

24 “[2] **(3)** The department may deny, **suspend** or revoke the certification of any fire service
25 professional after written notice and hearing consistent with the provisions of ORS 181.661, based
26 upon a finding *[that]*:

27 “(a) **That** the fire service professional falsified any information submitted on the application for
28 certification or on any documents submitted to the board or the department; or

29 “(b) **Consistent with ORS 670.280, that** the fire service professional *[has been discharged for*
30 *cause from employment in the fire service]* **is not fit to receive or hold the certification as a result**
31 **of conviction of a crime in this state, or in any other jurisdiction, other than a crime de-**
32 **scribed in subsection (2) of this section.**

33 “[3] **(4)** The department shall deny, **suspend** or revoke the certification of any public safety
34 officer or instructor, except a youth correction officer *[or fire service professional]*, after written
35 notice and hearing consistent with the provisions of ORS 181.661, based upon a finding that the
36 public safety officer or instructor has been discharged for cause from employment as a public safety
37 officer.

38 “[4] **(5)** The department, in consultation with the board, shall adopt rules specifying those
39 crimes for which a conviction requires the denial, **suspension** or revocation of the certification of
40 a public safety officer or instructor.

41 “[5] **(6)** Notwithstanding the lapse, suspension, revocation or surrender of the certification of
42 a public safety officer or instructor, the department may:

43 “(a) Proceed with any investigation of, or any action or disciplinary proceedings against, the
44 public safety officer or instructor; or

45 “(b) Revise or render void an order suspending or revoking the certification.

1 “[(6)] (7) The department shall deny, **suspend** or revoke the accreditation of a training or edu-
2 cational program or any course, subject, facility or instruction thereof if the program, course, sub-
3 ject, facility or instruction is not in compliance with rules adopted or conditions prescribed under
4 ORS 181.640 (1)(g) or 181.650 (3).

5 “**SECTION 3.** ORS 181.661 is amended to read:

6 “181.661. When the Department of Public Safety Standards and Training denies application or
7 certification or the department or Board on Public Safety Standards and Training believes there is
8 a reasonable basis for **suspending or** revoking the certification of an instructor or a public safety
9 officer, except a youth correction officer or fire service professional, notice and opportunity for a
10 hearing shall be provided in accordance with rules approved by the board and in accordance with
11 ORS 183.415 prior to [*such*] **suspension or** revocation.

12 “**SECTION 4.** (1) **For the purpose of requesting a state or nationwide criminal records**
13 **check under this section, the Department of Public Safety Standards and Training may re-**
14 **quire the fingerprints of a person described in paragraphs (a) to (c) of this subsection. The**
15 **Department of Public Safety Standards and Training may request that the Department of**
16 **State Police conduct a state or nationwide criminal records check on a subject individual if**
17 **the subject individual:**

18 “(a) **Is employed or applying for employment by the Department of Public Safety Stan-**
19 **dards and Training;**

20 “(b) **Provides services or seeks to provide services to the Department of Public Safety**
21 **Standards and Training as a contractor, vendor or volunteer; or**

22 “(c) **Is applying for a license or certificate, or for reissuance of a license or certificate,**
23 **that is issued by the Department of Public Safety Standards and Training or the individual**
24 **is under investigation by the Department of Public Safety Standards and Training.**

25 “(2) **If a nationwide criminal records check is necessary for a subject individual, the De-**
26 **partment of Public Safety Standards and Training shall request the Department of State**
27 **Police to conduct the check, including fingerprint identification, through the Federal Bureau**
28 **of Investigation. The Department of State Police shall report the results to the Department**
29 **of Public Safety Standards and Training. The Department of State Police shall also furnish**
30 **any information that the Department of State Police may have in its possession from its**
31 **central bureau of criminal identification, including but not limited to manual or computer-**
32 **ized information.**

33 “(3) **The Federal Bureau of Investigation shall either return or destroy the fingerprint**
34 **cards used to conduct the criminal records check and shall not keep any record of the fin-**
35 **gerprints. However, if the federal bureau policy authorizing return or destruction of the**
36 **fingerprint cards is changed, the Department of Public Safety Standards and Training shall**
37 **cease to send the cards to the federal bureau but shall continue to process the information**
38 **through other available resources.**

39 “(4) **If the Federal Bureau of Investigation returns the fingerprint cards to the Depart-**
40 **ment of State Police, the department shall return the fingerprint cards to the Department**
41 **of Public Safety Standards and Training. The Department of Public Safety Standards and**
42 **Training shall destroy the fingerprint cards and shall retain no facsimiles or other material**
43 **from which a fingerprint can be reproduced.**

44 “(5)(a) **The Department of Public Safety Standards and Training, using rules adopted by**
45 **the department, shall determine whether a subject individual is fit to hold a position, provide**

1 services or be certified based on the criminal offender information obtained pursuant to this
2 section, any false statements made by the individual regarding the criminal history of the
3 individual and any refusal to submit or consent to a criminal records check including fin-
4 gerprint identification. If a subject individual is determined to be unfit, then that person
5 shall not hold the position, provide the services or be certified.

6 “(b) In determining whether a subject individual described in subsection (1)(a) or (b) of
7 this section is fit to hold a position or provide services, the department shall consider:

8 “(A) The nature of the crime;

9 “(B) The facts that support the conviction or pending indictment or indicate the making
10 of the false statement;

11 “(C) The relevancy, if any, of the crime or the false statement to the specific require-
12 ments of the subject individual’s present or proposed position or authority to provide ser-
13 vices; and

14 “(D) Intervening circumstances relevant to the responsibilities and circumstances of the
15 position or services. Intervening circumstances include but are not limited to the passage
16 of time since the commission of the crime, the age of the person at the time of the crime,
17 the likelihood of a repetition of offenses, the subsequent commission of another relevant
18 crime and a recommendation of an employer.

19 “(c) The department and employees of the department are immune from any civil liability
20 that might otherwise be incurred or imposed for making a good-faith determination pursuant
21 to this subsection that a subject individual is not fit to hold a position, provide services or
22 be certified.

23 “(6)(a) The Department of Public Safety Standards and Training shall establish by rule a
24 contested case process by which a subject individual may appeal the determination that the
25 subject individual is disqualified for a position pursuant to this section. Challenges to the
26 accuracy or completeness of information provided by the Department of State Police, the
27 Federal Bureau of Investigation and agencies reporting information to the Department of
28 State Police or the Federal Bureau of Investigation must be made through the Department
29 of State Police, the Federal Bureau of Investigation or the agency and not through the con-
30 tested case process required by this paragraph.

31 “(b) A subject individual who is also employed by the Department of Public Safety Stan-
32 dards and Training and who is determined disqualified for a position may appeal the deter-
33 mination through either the contested case process adopted under this subsection or
34 applicable personnel rules, policies and collective bargaining provisions. A subject individual’s
35 decision to appeal a determination through personnel rules, policies and collective bargaining
36 provisions is an election of remedies as to the rights of the subject individual with respect
37 to the disqualification determination, and is a waiver of the contested case process.

38 “(7) The Department of Public Safety Standards and Training, in consultation with the
39 Department of State Police, shall adopt rules to implement this section. The rules may in-
40 clude but are not limited to:

41 “(a) Specifying which employees are authorized to make criminal record inquiries;

42 “(b) Specifying categories of subject individuals who are subject to criminal records
43 checks;

44 “(c) Specifying the information, including fingerprints, that may be required from a sub-
45 ject individual to permit a criminal records check;

