



Oregon

John A. Kitzhaber, MD, Governor

Department of Public Safety Standards and Training

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DATE: February 5, 2013

TO: House Judiciary Committee
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Carolyn Tomei
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FROM: Marilyn Lorange, Legislative Coordinator

SUBJECT: House Bill 2043

Summary: House Bill 2043 would allow the Department of Public Safety Standards and Training (DPSST) to conduct a contested case hearing in situations when a public safety officer who is not yet certified is terminated by their public safety employer before their previously requested hearing takes place.

Background: DPSST's enabling statutes bring a person into DPSST jurisdiction when they become employed in a certified position as a public safety officer. Once a person is granted certification, the DPSST certificate remains within DPSST jurisdiction for purposes of professional standards enforcement, even if the individual leaves employment. In general, a person who leaves their certifiable public safety position before becoming certified is a private individual, not a public safety officer. Therefore, DPSST has no jurisdiction or regulatory authority over them.

Recently, an individual who was employed in a certifiable position was issued a Notice of Intent to Deny Application for Training but was terminated by his employer before a contested case hearing could be held on the proposed DPSST action. DPSST reviewed the situation with our Department of Justice legal counsel, who again confirmed that DPSST no longer had jurisdiction over him under our enabling statutes. After the agency withdrew the Notice, the individual appealed the withdrawal in circuit court. The judge cited "due process and common sense" in her ruling that a hearing should be granted. Although this fact pattern is very uncommon, DPSST seeks a legislative remedy that would allow a contested case hearing to be held, notwithstanding the agency's lack of general jurisdiction in cases such as this.

Requested Solution: House Bill 2043 proposes a narrowly crafted change to ORS 181.662 to grant DPSST continuing jurisdiction to proceed to a contested case hearing when a person has been separated from employment after they have been served with a Notice of Intent to Deny and have requested a hearing. Because this fact pattern is an uncommon one, this change will not have a substantive fiscal impact on the agency.

