

BILL ANALYSIS

Senate Research Center

S.B. 805
By: Campbell et al.
Veteran Affairs & Military Installations
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Office of the Comptroller of Public Accounts of the State of Texas produces a quarterly report detailing the number of veteran employees at all state agencies. For the past three years, just five percent of all state employees were veterans, compared to nearly 20 percent of federal employees. S.B. 805 allows direct hiring of veterans by agencies through the Texas Workforce Commission's automated job matching system, requires agencies to interview veterans, and ensures agencies with more than 500 FTEs (full-time equivalents) designate a veteran's liaison.

S.B. 805 amends current law relating to the employment of individuals qualified for a veterans employment preference.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 2 (Section 657.009, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Military Veterans' Full Employment Act.

SECTION 2. Amends Chapter 657, Government Code, as follows:

CHAPTER 657. VETERAN'S EMPLOYMENT PREFERENCES

Sec. 657.001. DEFINITIONS. Defines "state agency," "veteran," and "veteran with a disability" and deletes definitions of "established service-connected disability" and "public entity."

Sec. 657.002. New heading: INDIVIDUALS QUALIFIED FOR VETERAN'S EMPLOYMENT PREFERENCE. Provides that the following individuals qualify for a veteran's employment preference:

- (1) a veteran, including a veteran with a disability;
- (2) a veteran's surviving spouse who has not remarried; and
- (3) an orphan of a veteran if the veteran was killed while on active duty.

Deletes Subsection (a) designation and existing text providing that a veteran qualifies for a veteran's employment preference if the veteran served in the military for not less than 90 consecutive days during a national emergency declared in accordance with federal law or was discharged from military service for an established service-connected disability; was honorably discharged from military service; and is competent.

Deletes existing text providing that a veteran's surviving spouse qualifies for a veteran's employment preference if the spouse has not remarried and is competent. Deletes existing text providing that an orphan of a veteran qualifies

for a veteran's employment preference if the veteran was killed while on active duty, the veteran serviced in the military for not less than 90 days during a national emergency declared in accordance with federal law, and the orphan is competent.

Deletes existing Subsection (c) defining "veteran."

Makes nonsubstantive changes.

Sec. 657.003. VETERAN'S EMPLOYMENT PREFERENCE. (a) Entitles an individual who qualifies for a veteran's employment preference to a preference in employment with or appointment to a state agency, rather than to a public entity or for a public work of this state, over other applicants for the same position who do not have a greater qualification.

(b) Deletes existing text providing that an individual who has an established service-connected disability and is entitled to a veteran's employment preference is entitled to preference for employment or appointment in a position for which a competitive examination is not held over all other applicants for the same position without a service-connected disability and who do not have a greater qualification. Requires a state agency to provide an individual entitled to a veteran's employment preference for employment or appointment over other applicants for the same position who do not have a greater qualification a veteran's employment preference, in the following order of priority:

- (1) a veteran with a disability;
- (2) a veteran;
- (3) a veteran's surviving spouse who has not remarried; and
- (4) an orphan of a veteran if the veteran was killed while on active duty.

(c) Provides that, if a state agency, rather than a public entity or public work of this state, requires a competitive examination under a merit system or civil service plan for selecting or promoting employees, an individual entitled to a veteran's employment preference who otherwise is qualified for that position and who has received at least the minimum required score for the test is entitled to have a service credit of 10 points added to the test score. Provides that a veteran with a disability, rather than an individual who has an established service-connected disability, is entitled to have a service credit of five additional points added to the individual's test score.

(d) Provides that an individual entitled to a veteran's employment preference is not disqualified from holding a position with a state agency, rather than a public entity or public work of this state, because of age or an established service-connected disability if the age or disability does not make the individual incompetent to perform the duties of the position. Deletes existing Subsection (e) providing that this chapter does not apply to the position of private secretary or deputy of an official or department; or a person holding a strictly confidential relation to the appointing or employing officer.

Sec. 657.004. New heading: VETERAN EMPLOYMENT GOAL FOR STATE AGENCIES. (a) Requires each state agency to establish a goal of hiring, in full-time positions at the agency, a number of veterans equal to at least 20 percent of the total number of employees of the state agency. Deletes existing text requiring that an individual whose duty is to appoint or employ individuals for a public entity or public work of this state to give preference in hiring to individuals entitled to a veteran's employment preference so that at least 40 percent of the employees of the public entity or public work are selected from individuals given that preference. Deletes existing text

requiring a public entity or public work that does not have 40 percent of its employees who are entitled to the preference to give preferences, in filling vacancies, to individuals entitled to a veteran's employment preference until it does have at least 40 percent of its employees who are entitled to the preference.

(b) Authorizes a state agency to establish a veteran employment goal that is greater than the percentage required under Subsection (a). Deletes existing text requiring a public entity or public work to give 10 percent of the preferences granted under this chapter to qualified veterans discharged from the armed services of the United States within the preceding 18 months, when possible. Deletes existing Subsection (c) providing that a public entity or public work that has at least 40 percent of its employees who are entitled to the preference is exempt from the requirements of Section 657.005.

Sec. 657.0045. DESIGNATION OF OPEN POSITION FOR AND IMMEDIATE HIRING OF INDIVIDUAL ENTITLED TO VETERAN'S EMPLOYMENT PREFERENCE. (a) Authorizes a state agency to designate an open position as a veteran's position and only accept applications for that position from individuals who are entitled to a veteran's employment preference under Section 657.003 (Veteran's Employment Preference).

(b) Authorizes a state agency to hire or appoint for an open position within the agency an individual entitled to a veteran's employment preference under Section 657.003 without announcing or advertising the position if the agency, notwithstanding any other law:

(1) uses the automated labor exchange system administered by the Texas Workforce Commission (TWC) to identify an individual who qualifies for a veteran's employment preference under this chapter; and

(2) determines the individual meets the qualifications required for the position.

Sec. 657.0046. STATE AGENCY VETERAN'S LIAISON. (a) Requires that each state agency that has at least 500 full-time equivalent positions to designate an individual from the agency to serve as a veteran's liaison.

(b) Authorizes a state agency that has fewer than 500 full-time equivalent positions to designate an individual from the agency to serve as a veteran's liaison.

(c) Requires each state agency that designates a veteran's liaison to make available on the agency's Internet website the liaison's individual work contact information.

Sec. 657.0047. INTERVIEWS AT STATE AGENCIES. (a) Requires the state agency, for each announced open position at a state agency, to interview:

(1) if the total number of individuals interviewed for the position is six or fewer, at least one individual qualified for a veteran's employment preference under Section 657.003; or

(2) if the total number of individuals interviewed for the position is more than six, a number of individuals qualified for a veteran's employment preference under Section 657.003 equal to at least 20 percent of the total number interviewed.

(b) Provides that a state agency that does not receive any applications from individuals who qualify for a veteran's employment preference under Section 657.003 is not required to comply with Subsection (a).

Sec. 657.005. EMPLOYMENT INVESTIGATION. (a) Requires the individual whose duty is to appoint or employ an applicant for a position with a state agency, rather than a public entity or public work of this state, or an officer or the chief administrator of the agency, rather than the entity or work, who receives an application for appointment or employment by an individual entitled to a veteran's employment preference, before appointing or employing any individual, to investigate the qualifications of the applicant for the position. Deletes existing text requiring the officer, chief executive, or individual whose duty is to appoint or employ to appoint or employ the applicant for the position if the applicant is of good moral character and can perform the duties of the position.

(b) Requires an applicant who is a veteran with a disability, rather than an applicant with an established service-connected disability, to furnish the official records to the individual whose duty is to fill the position.

Sec. 657.006. FEDERAL LAW AND GRANTS. Requires that this chapter be construed to operate in harmony with the federal law or limitation of the federal grant to the extent that this chapter conflicts with federal law or a limitation provided by a federal grant to a state agency, rather than a public entity.

Sec. 657.007. PREFERENCE APPLICABLE TO REDUCTION IN WORKFORCE. (a) Provides that an individual entitled to a hiring or appointment preference under this chapter is also entitled to a preference in retaining employment if the state agency, rather than public entity, that employs or appoints the individual reduces its workforce.

(b) Provides that the preference granted under this section applies only to the extent that a reduction in workforce by an employing state agency, rather than public entity, involves other employees of a similar type or classification.

Sec. 657.008. REPORTING REQUIREMENTS. (a) Requires a state agency, rather than a public entity, to file quarterly with the comptroller of public accounts of the State of Texas (comptroller) a report that states:

(1) the percentage of the total number of employees hired or appointed by the agency, rather than hired by the entity, during the reporting period who are persons entitled to a preference under this chapter;

(2) the percentage of the total number of the agency's, rather than the entity's, employees who are persons entitled to a preference under this chapter; and

(3) the number of complaints filed with the executive director of the agency, rather than the governing body of the entity, under Section 657.010 during that quarter and the number of those complaints resolved by the executive director, rather than the governing body.

(b) Requires the comptroller to make each quarterly report filed under Subsection (a) available to the public on the comptroller's Internet website.

(c) Requires the comptroller to file with the legislature a report that compiles and analyzes information that the comptroller receives from state agencies, rather than public entities, under Subsection (a), not later than December 1 of each year, rather than annually.

Sec. 657.009. New heading: STATE AGENCIES TO LIST POSITIONS WITH TEXAS WORKFORCE COMMISSION. (a) Requires a state agency, rather than a public entity, to provide to TWC, under rules adopted under this section by TWC, information regarding an open position that is subject to the hiring or appointment preference required by this chapter.

- (b) Requires TWC to make available to the public the information provided by a state agency, rather than public entity, under Subsection (a).
- (c) Requires TWC to adopt rules under this section that facilitate the exchange of employment information between state agencies, rather than public entities, and individuals entitled to a preference under this chapter to promote the purposes of this chapter.
- (d) Makes no change to this subsection.

Sec. 657.010. New heading: COMPLAINT REGARDING EMPLOYMENT DECISION OF STATE AGENCY. (a) Authorizes an individual entitled to a veteran's employment preference under this chapter who is aggrieved by a decision of a state agency, rather than a public entity or public work of this state, to which this chapter applies relating to hiring or appointing the individual, or relating to retaining the individual if the state agency, rather than entity or work, reduces its workforce, to appeal the decision by filing a written complaint with the executive director of the state agency, rather than the governing body of the public entity or public work, under this section.

- (b) Requires the executive director of a state agency, rather than the governing body of a public entity or public work, that receives a written complain under Subsection (a) to respond to the complaint not later than the 15th business day after the date the executive director, rather than the governing body, receives the complaint. Authorizes the executive director, rather than the governing body, to render a different hiring or appointment decision than the decision that is the subject of the complaint if the executive director, rather than the governing body, determines that the veteran's preference was not applied.

SECTION 3. Amends Subtitle A, Title 2, Labor Code, by adding Chapter 23, as follows:

CHAPTER 23. VOLUNTARY VETERAN'S EMPLOYMENT PREFERENCE FOR PRIVATE EMPLOYERS

Sec. 23.001. DEFINITION. Defines "veteran."

Sec. 23.002. VOLUNTARY PREFERENCE POLICY. (a) Authorizes a private employer to adopt a policy under which the employer may give a preference in employment decisions regarding hiring, promotion, or retention to a veteran over another qualified applicant or employee.

- (b) Requires that a policy adopted under this section be in writing.

Sec. 23.003. APPLICATION OF POLICY. (a) Requires an employer to apply any policy adopted under this chapter reasonably and in good faith in employment decisions regarding hiring, promotion, or retention during a reduction in the employer's workforce.

- (b) Authorizes an employer to require appropriate documentation from a veteran for the veteran to be eligible for the preference under a policy adopted under this chapter.
- (c) Provides that granting a preference in accordance with a policy adopted under this chapter does not violate Chapter 21 (Employment Discrimination).

SECTION 4. (a) Provides that the changes in law made by this Act to Chapter 657, Government Code, apply only to an open position with a state agency for which the state agency begins accepting applications on or after the effective date of this Act. Provides that an open position with a state agency for which the state agency begins accepting applications before the effective date of this Act is governed by the law in effect on the date the state agency began accepting applications, and the former law is continued in effect for that purpose.

(b) Provides that Chapter 23, Labor Code, as added by this Act, applies only to an employment decision made on or after the effective date of this Act. Provides that an employment decision made before the effective date of this Act is governed by the law in effect on the date the decision was made, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: September 1, 2015.