

BILL ANALYSIS

C.S.H.B. 2144

By: Berman
Defense Affairs & State-Federal Relations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

After World War II chapters 657.001-657.007 were added to the Texas Government Code. These chapters govern veteran's preference and require under Section 657.003 (c) that "if a public entity or public work of this state requires a competitive examination under a merit system or civil service examination for selection or promotion, an individual who is entitled to veterans' preference who otherwise is qualified for the position and who has received at least the minimum score for the test is entitled to have a service credit of 10 points added to the test score. An individual who has an established service connected disability... is entitled to an additional 5 points added to the individuals score. "

In the early 1980's the State Merit System Council that administered this testing process for state agencies was abolished and merit system tests are no longer required by state agencies. As a result, the mechanism for providing veterans' preference in a standardized manner no longer exists.

Even those agencies that still have competitive examinations have a loophole to refuse veteran's preference. Under Section 657.004 (c) the current statute requires that "a public entity or public work that has at least 40 per cent of its employees who are entitled to the preference is exempt from the requirement of Section 657.005. "

CSHB 2144 would remove language concerning the 40% rule in Section 657.004 of the Texas Government Code and would strengthen veterans' preference by requiring agencies to provide veteran's preference in any of the ratings and/or selection processes utilized by agencies to fill positions regardless of the ranking procedures.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1 defines what a minimum qualification is for the jobs applicable to veteran's preference, and clarifies what agencies must comply with veteran's preference. It also defines a "public work."

SECTION 2 changes the requirements for persons who are qualified for veteran's preferences, establishing that the veteran or the veteran's spouse or orphan must meet the minimum qualifications, plus those requirements left unchanged, in order to receive veteran's preference.

SECTION 3 entitles those individuals that are eligible to receive veteran's preference to be considered before other applicants, who meet the same minimum qualifications, for the same position of the job in question. This section also entitles those individuals who have an established service-related disability to be considered before those without an established service-related disability. It also entitles those individuals eligible to receive veteran's preference to an additional credit of at least ten percent applied to the scoring system or scoring mechanism given by a "public entity" that assists in the hiring process. Another additional credit of 1-1/2 times the amount given would be given if that individual had an established service-related disability.

SECTION 4 clarifies that an individual eligible to receive veteran's preference will be the last to be looked at before being downsized amongst other employees of the same classification.

SECTION 5 would effect the quarterly report that is given to the comptroller, regarding veteran's preference, from a public entity. The report must inform the comptroller of any measures taken to inform individuals of their rights regarding veteran's preference. They would also make available to the comptroller the appeals process which an individual goes through if that individual alleges that the public entity in question has violated the individuals rights to veteran's preference.

SECTION 6 adds an appeals process for any hiring decision that the individual, who is eligible for veteran's preference, believes was made in error, and establishes a time restriction for when the complaint is to be filed. This SECTION establishes the guidelines to the appeals process regarding veteran's preference and gives individuals the mechanism to make sure their veteran's preferences were not overlooked in the hiring process. If the public entity determines that the individual's veteran's preference was overlooked then the public entity will either take disciplinary action against the one making hiring decisions, if they willfully violated veterans' preference, and offer to employ the applicant in the next available position at the job level for which the applicant applied, for which the applicant meets the minimum qualifications.

SECTION 7 deletes the 40% rule in 657.004 of the Government Code.

EFFECTIVE DATE

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute changes what the minimum qualifications are in SECTION 1 by stating that they must have the experience and education to perform the essential tasks of a job. The substitute also defines a "public work."

SECTION 3 establishes more detail in the amount of credit given to veterans and veterans with established service-related disabilities.

In SECTION 4, "like status and seniority" is changed to "the same," referring to classifications of employees.

Finally, in SECTION 6, a time restraint of 30 days is placed on veterans for how long they have to file a complaint with the public entity. Language is changed to clarify that disciplinary action would be taken on the one responsible for the hiring process if they willfully violated veterans' preference. It also clarifies that the job offered to the veteran will be at the job level at which the veteran applied.