

BILL ANALYSIS

Senate Research Center
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S.B. 1094
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current state law requires a hiring preference for veterans for all entities that receive at least partial public funding. In order to be eligible for this preference, the veteran must have served during a "national emergency" for at least 90 days and be competent for the position in question. Disabled veterans are also eligible for this preference, provided that their disability was caused by a service-related incident. This preference serves to favor the veteran in any situation where there are equally qualified applicants being considered. In such a case, a veteran would receive extra credit in the hiring process, with a disabled veteran receiving an even greater amount of extra credit than the non-veteran applicant.

Current law also requires public entities to report quarterly to the comptroller of public accounts the percentage of new employees hired during that period who qualified for the veteran hiring preference, in addition to the percentage of total employees in the organization that are entitled to the preference.

However, there is no provision in current law for public entities to report on their activities to inform applicants that they may be eligible for a veteran hiring preference, nor do they have to report on the appeals process available to veterans who feel they were passed over unfairly for a position. Current state law also does not define a formal complaint procedure for veterans to pursue when they feel they have been passed over for a position unfairly, and does not define penalties for persons found to have wrongly passed over a veteran who should have been hired because of the preference.

As proposed, S.B. 1094 corrects these issues. It adds to the quarterly reporting requirements of public entities by stipulating that they must report on the measures taken to inform individuals entitled to a veteran hiring preference, and must also report on the appeals process available to individuals alleging that the entity violated their rights concerning the hiring preference. The bill also formally defines a complaint procedure for passed-over applicants, directing them to file a written complaint with the entity in question specifying clearly the name of the entity and the nature of the allegations. Once a complaint is filed, the entity must respond to the allegations in writing within 30 days. If the entity in question investigates and finds that the individual should have been offered the position in question because of the preference, it is required to take disciplinary action against the responsible hiring party. It also is required to make an employment offer to the offended applicant for the next available job opening for which the applicant meets the minimum requirements.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 657.001, Government Code, by adding Subdivision (1-a) to define "minimum qualifications" and amending Subdivision (2) to redefine "public entity."

SECTION 2. Amends Sections 657.002(a) and (b), Government Code, as follows:

- (a) Provides that a veteran qualifies for a veteran's employment preference if the veteran meets the minimum qualifications for the position, rather than is competent.

(b) Provides that a veteran's surviving spouse who has not remarried or an orphan of a veteran qualifies for a veteran's employment preference if the spouse or the orphan meets the minimum qualifications for the position, rather than is competent.

SECTION 3. Amends Sections 657.003(a), (b), and (c), Government Code, as follows:

(a) Entitles an individual who qualifies for a veteran's employment preference to a preference in employment with or appointment to a public entity or for a public work over other applicants for the same position who meet the minimum qualifications for the position, rather than do not have a greater qualification.

(b) Makes a conforming change. Deletes existing text pertaining to a competitive examination.

(c) Provides that an individual entitled to a veteran's employment preference who meets the minimum qualifications for that position is entitled to have an additional credit applied to the scoring system or mechanism the public entity uses to evaluate applications for employment. Requires the additional credit for an individual who has an established service-connected disability to be equal to 1-1/2 times the credit a nondisabled veteran receives under this section. Deletes existing text regarding a competitive examination under a merit system or civil service plan for selecting or promoting employees and a five or ten point entitlement upon such examinations.

SECTION 4. Amends Section 657.007(b), Government Code, to provide that the preference granted under this section applies only to the extent that a reduction in workforce by an employing public entity involves other employees of like status and seniority, rather than a similar type or classification.

SECTION 5. Amends Section 657.008(a), Government Code, to make modifications to the information required to be included in the quarterly report filed with the comptroller of public accountants by a public entity.

SECTION 6. Amends Chapter 657, Government Code, by adding Section 657.010, as follows:

Sec. 657.010. COMPLAINT PROCEDURE. (a) Authorizes an individual who is entitled to a veteran's employment preference under this chapter to appeal a hiring decision made by a public entity by filing a written complaint with the public entity.

(b) Requires the individual to state certain information in the complaint.

(c) Requires the public entity to inform the individual in writing of the remedies available through the public entity not later than the 30th day after receiving the complaint.

(d) Requires the public entity to take certain steps if the public entity determines that an individual should have been offered the position because of the preference granted under this chapter.

SECTION 7. Repealer: Sections 657.004(a) and (c) (pertaining to preference required for public entities or public works), Government Code.

SECTION 8. Makes application of the changes in law made by this Act to Chapter 657, Government Code, pertaining to an application for employment, prospective.

SECTION 9. Makes application of the changes in law made by this Act to Chapter 657, Government Code, pertaining to a contract or public work for which a public entity advertises or otherwise solicits bids, proposals, offers, or qualifications, prospective.

SECTION 10. Makes application of the changes in law made by this Act to Chapter 657, Government Code, pertaining to an entity that receives public money, prospective.

SECTION 11. Effective date: September 1, 2005.