

By: Berman

H.B. No. 2144

A BILL TO BE ENTITLED

AN ACT

relating to veteran's employment preferences.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 657.001, Government Code, is amended by adding Subdivisions (1-a) and (3) and amending Subdivision (2) to read as follows:

(1-a) "Minimum qualifications" means having the experience and education to perform the essential tasks of a job.

(2) "Public entity" means:

(A) a state agency, including:

(i) a [~~public~~] department, commission, board, authority, office, or other agency;

(a) in the executive branch or legislative branch created by the constitution or a statute of this state; or

(b) of state government, created under the constitution or a statute, with statewide authority;

(ii) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(iii) the supreme court, the court of criminal appeals, another entity in the judicial branch of state government with statewide authority, or a court of appeals; or

(B) a county, municipality, district, or

1 authority created under Section 52, Article III, or Section 59,
2 Article XVI, Texas Constitution, or any other political or
3 corporate public body of this state.

4 (3) "Public work" means a project that is the subject
5 of a public work contract to which Chapter 2253 applies.

6 SECTION 2. Sections 657.002(a) and (b), Government Code,
7 are amended to read as follows:

8 (a) A veteran qualifies for a veteran's employment
9 preference if the veteran:

10 (1) served in the military for not less than 90
11 consecutive days during a national emergency declared in accordance
12 with federal law or was discharged from military service for an
13 established service-connected disability;

14 (2) was honorably discharged from military service;
15 and

16 (3) meets the minimum qualifications for the
17 position [~~is competent~~].

18 (b) A veteran's surviving spouse who has not remarried or an
19 orphan of a veteran qualifies for a veteran's employment preference
20 if:

21 (1) the veteran was killed while on active duty;

22 (2) the veteran served in the military for not less
23 than 90 consecutive days during a national emergency declared in
24 accordance with federal law; and

25 (3) the spouse or orphan meets the minimum
26 qualifications for the position [~~is competent~~].

27 SECTION 3. Sections 657.003(a), (b), and (c), Government

1 Code, are amended to read as follows:

2 (a) An individual who qualifies for a veteran's employment
3 preference is entitled to a preference in employment with or
4 appointment to a public entity or for a public work ~~[of this state]~~
5 over other applicants for the same position who meet the minimum
6 qualifications for the position ~~[do not have a greater~~
7 ~~qualification]~~.

8 (b) An individual who has an established service-connected
9 disability and is entitled to a veteran's employment preference is
10 entitled to preference for employment or appointment in a position
11 ~~[for which a competitive examination is not held]~~ over all other
12 applicants for the same position without a service-connected
13 disability and who meet the minimum qualifications for the
14 position ~~[do not have a greater qualification]~~.

15 (c) An ~~[If a public entity or public work of this state~~
16 ~~requires a competitive examination under a merit system or civil~~
17 ~~service plan for selecting or promoting employees, an]~~ individual
18 entitled to a veteran's employment preference who meets the minimum
19 qualifications ~~[otherwise is qualified]~~ for that position ~~[and who~~
20 ~~has received at least the minimum required score for the test]~~ is
21 entitled to have an additional ~~[a service]~~ credit of at least 10
22 percent applied to the scoring system or mechanism the public
23 entity uses to evaluate applications for employment ~~[of 10 points~~
24 ~~added to the test score]~~. The additional credit for an ~~[An]~~
25 individual who has an established service-connected disability
26 must be equal to 1-1/2 times the credit a nondisabled veteran
27 receives under this section ~~[is entitled to have a service credit of~~

1 ~~five additional points added to the individual's test score]~~.

2 SECTION 4. Section 657.007(b), Government Code, is amended
3 to read as follows:

4 (b) The preference granted under this section applies only
5 to the extent that a reduction in workforce by an employing public
6 entity involves other employees of the same [~~a similar type or~~]
7 classification.

8 SECTION 5. Section 657.008(a), Government Code, is amended
9 to read as follows:

10 (a) A public entity shall file quarterly with the
11 comptroller a report that states:

12 (1) any measures taken by the public entity to inform
13 individuals entitled to a hiring preference under this chapter of
14 their rights under this chapter;

15 (2) the appeals process available through the public
16 entity to an individual entitled to a hiring preference under this
17 chapter who alleges that the public entity violated the
18 individual's rights under this chapter;

19 (3) the percentage of the total number of employees
20 hired by the entity during the reporting period who are persons
21 entitled to a preference under this chapter; and

22 (4) [~~(2)~~] the percentage of the total number of the
23 entity's employees who are persons entitled to a preference under
24 this chapter.

25 SECTION 6. Chapter 657, Government Code, is amended by
26 adding Section 657.010 to read as follows:

27 Sec. 657.010. COMPLAINT PROCEDURE. (a) An individual who

1 is entitled to a veteran's employment preference under this chapter
2 may appeal a hiring decision made by a public entity by filing a
3 written complaint with the public entity not later than the 30th day
4 after the date the hiring decision is made.

5 (b) The individual must state in the complaint:

6 (1) the name of the public entity; and

7 (2) the allegations that form the basis of the
8 complaint.

9 (c) Not later than the 30th day after the date the public
10 entity receives the complaint, the public entity shall inform the
11 individual in writing of the remedies available through the public
12 entity.

13 (d) If the public entity determines that an individual
14 should have been offered the position because of the preference
15 granted under this chapter, the public entity shall:

16 (1) take disciplinary action against the person
17 responsible for making hiring decisions for the public entity if
18 the person wilfully violated this chapter; and

19 (2) offer to employ the applicant in the next similar
20 position that becomes available for which the individual meets the
21 minimum qualifications.

22 SECTION 7. Sections 657.004(a) and (c), Government Code,
23 are repealed.

24 SECTION 8. The changes in law made by this Act to Chapter
25 657, Government Code, apply to an application for employment only
26 if the application is submitted on or after the effective date of
27 this Act. An application submitted before the effective date of

1 this Act is governed by the law in effect at the time of
2 application, and the former law is continued in effect for that
3 purpose.

4 SECTION 9. The changes in law made by this Act to Chapter
5 657, Government Code, apply to a contract or public work for which a
6 public entity advertises or otherwise solicits bids, proposals,
7 offers, or qualifications only if the entity first advertises or
8 otherwise solicits bids, proposals, offers, or qualifications on or
9 after the effective date of this Act. A contract or public work for
10 which a public entity first advertised or otherwise solicited bids,
11 proposals, offers, or qualifications before that date is governed
12 by the law in effect when the first advertisement or solicitation
13 was given, and the former law is continued in effect for that
14 purpose.

15 SECTION 10. The changes in law made by this Act to Chapter
16 657, Government Code, apply to an entity that receives public money
17 only in relation to money received by the entity on or after the
18 effective date of this Act. An entity that received public money
19 before the effective date of this Act is governed in relation to the
20 receipt of that money by the law in effect when the money was
21 received, and the former law is continued in effect for that
22 purpose.

23 SECTION 11. This Act takes effect September 1, 2005.