

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 Subdivision (1-a) and amending Subdivision (2) to read as follows:

(1-a) "Minimum qualifications" means having the ability 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 body of this state.

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

6 (a) A veteran qualifies for a veteran's employment
7 preference if the veteran:

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

12 (2) was honorably discharged from military service;
13 and

14 (3) meets the minimum qualifications for the
15 position [~~is competent~~].

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

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

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

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

25 SECTION 3. Sections 657.003(a), (b), and (c), Government
26 Code, are amended to read as follows:

27 (a) An individual who qualifies for a veteran's employment

1 preference is entitled to a preference in employment with or
2 appointment to a public entity or for a public work [~~of this state~~]
3 over other applicants for the same position who meet the minimum
4 qualifications for the position [~~do not have a greater~~
5 ~~qualification~~].

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

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

27 SECTION 4. Section 657.007(b), Government Code, is amended

1 to read as follows:

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

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

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

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

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

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

20 (4) [~~2~~] the percentage of the total number of the
21 entity's employees who are persons entitled to a preference under
22 this chapter.

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

25 Sec. 657.010. COMPLAINT PROCEDURE. (a) An individual who
26 is entitled to a veteran's employment preference under this chapter
27 may appeal a hiring decision made by a public entity by filing a

1 written complaint with the public entity.

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

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

4 (2) the allegations that form the basis of the
5 complaint.

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

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

13 (1) take disciplinary action against the individual
14 responsible for making hiring decisions for the public entity; and

15 (2) offer to employ the applicant in the next position
16 that becomes available for which the individual meets the minimum
17 qualifications.

18 SECTION 7. Sections 657.004(a) and (c), Government Code,
19 are repealed.

20 SECTION 8. The changes in law made by this Act to Chapter
21 657, Government Code, apply to an application for employment only
22 if the application is submitted on or after the effective date of
23 this Act. An application submitted before the effective date of
24 this Act is governed by the law in effect at the time of
25 application, and the former law is continued in effect for that
26 purpose.

27 SECTION 9. The changes in law made by this Act to Chapter

1 657, Government Code, apply to a contract or public work for which a
2 public entity advertises or otherwise solicits bids, proposals,
3 offers, or qualifications only if the entity first advertises or
4 otherwise solicits bids, proposals, offers, or qualifications on or
5 after the effective date of this Act. A contract or public work for
6 which a public entity first advertised or otherwise solicited bids,
7 proposals, offers, or qualifications before that date is governed
8 by the law in effect when the first advertisement or solicitation
9 was given, and the former law is continued in effect for that
10 purpose.

11 SECTION 10. The changes in law made by this Act to Chapter
12 657, Government Code, apply to an entity that receives public money
13 only if the entity receives the money on or after the effective date
14 of this Act. An entity that received public money before the
15 effective date of this Act is governed by the law in effect when the
16 money was received, and the former law is continued in effect for
17 that purpose.

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