

By: Van de Putte, Gallegos

S.B. No. 1454

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. Chapter 657, Government Code, is amended by designating Sections 657.001 through 657.009 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. 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 the experience and education to perform the essential tasks of a job identified in the posting for the job.

(2) "Public entity" means:

(A) a state agency, including:

(i) a [public] department, commission, board, authority, office, or other agency in the executive branch of state government created by the constitution or a statute of this state; or

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

(B) a county, municipality, or district, a district or other authority created under Section 52, Article III,

1 or Section 59, Article XVI, Texas Constitution, or any other  
2 political subdivision of this state.

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

6 SECTION 3. Subchapter A, Chapter 657, Government Code, as  
7 added by this Act, is amended by adding Section 657.0015 to read as  
8 follows:

9 Sec. 657.0015. EXCEPTIONS. This chapter does not apply to:

10 (1) appointments made by the governor; or

11 (2) the employment of:

12 (A) a head of a division or department in a state  
13 office or agency headed by a single elected state official; or

14 (B) a person who advises or reports directly to  
15 an elected state official.

16 SECTION 4. Subsections (a) and (b), Section 657.002,  
17 Government Code, are amended to read as follows:

18 (a) A veteran qualifies for a veteran's employment  
19 preference if the veteran:

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

24 (2) was honorably discharged from military service;  
25 and

26 (3) meets the minimum qualifications for the  
27 position [~~is competent~~].

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

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

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

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

10 SECTION 5. Subsections (a), (b), and (c), Section 657.003,  
11 Government Code, are amended to read as follows:

12 (a) An individual who qualifies for a veteran's employment  
13 preference is entitled to a preference in employment with or  
14 appointment to a public entity or for a public work of this state  
15 over other applicants for the same position who do not have [~~a~~]  
16 greater qualifications for the position [~~qualification~~].

17 (b) An individual who has an established service-connected  
18 disability and is entitled to a veteran's employment preference is  
19 entitled to preference for employment or appointment in a position  
20 [~~for which a competitive examination is not held~~] over all other  
21 applicants for the same position who are without a  
22 service-connected disability and who do not have [~~a~~] greater  
23 qualifications for the position [~~qualification~~].

24 (c) If a public entity or public work of this state requires  
25 a competitive examination under a merit system or civil service  
26 plan for selecting or promoting employees, an individual entitled  
27 to a veteran's employment preference who meets the minimum

1 qualifications [~~otherwise is qualified~~] for that position and who  
2 has received at least the minimum required score for the test is  
3 entitled to have an additional [~~a service~~] credit added to the  
4 individual's test score of:

- 5           (1) at least 10 percent; or  
6           (2) for an [~~of 10 points added to the test score. An~~]  
7 individual who has an established service-connected disability, at  
8 least 15 percent [~~is entitled to have a service credit of five~~  
9 ~~additional points added to the individual's test score~~].

10           SECTION 6. Subsection (a), Section 657.005, Government  
11 Code, is amended to read as follows:

12           (a) The individual whose duty is to appoint or employ an  
13 applicant for a position with a public entity or public work of this  
14 state or an officer or the chief administrator of the entity or work  
15 who receives an application for appointment or employment by an  
16 individual entitled to a veteran's employment preference, before  
17 appointing or employing any individual, shall investigate the  
18 qualifications of the applicant for the position. If the applicant  
19 is of good moral character and can perform the duties of the  
20 position and no other applicant for the position has greater  
21 qualifications than the applicant entitled to a veteran's  
22 employment preference, the officer, chief executive, or individual  
23 whose duty is to appoint or employ shall appoint or employ the  
24 applicant for the position.

25           SECTION 7. Subsection (b), Section 657.007, Government  
26 Code, is amended to read as follows:

27           (b) The preference granted under this section applies only

1 to the extent that a reduction in workforce by an employing public  
2 entity involves other employees of the same [~~a similar type or~~]  
3 classification.

4 SECTION 8. Section 657.008, Government Code, is amended to  
5 read as follows:

6 Sec. 657.008. REPORTING REQUIREMENTS. (a) A state agency  
7 [~~public entity~~] shall file quarterly with the comptroller a report  
8 that states:

9 (1) any measures taken by the state agency during the  
10 quarter to inform individuals entitled to a hiring preference under  
11 this chapter of their rights under this chapter;

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

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

19 (4) [~~(2)~~] the percentage of the total number of the  
20 agency's [~~entity's~~] employees who are persons entitled to a  
21 preference under this chapter.

22 (b) The comptroller shall file annually with the  
23 legislature a report that compiles and analyzes information that  
24 the comptroller receives from state agencies [~~public entities~~]  
25 under Subsection (a).

26 SECTION 9. Chapter 657, Government Code, is amended by  
27 adding Subchapters B and C to read as follows:

1                   SUBCHAPTER B. COMPLAINT TO PUBLIC ENTITY

2                   Sec. 657.051. COMPLAINT PROCEDURE. (a) An individual who  
3 is entitled to a veteran's employment preference under this chapter  
4 may appeal a hiring decision made by a public entity by filing a  
5 written complaint with the public entity not later than the 30th day  
6 after the date the individual receives notice of the hiring  
7 decision.

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

- 9                   (1) the name of the public entity; and  
10                   (2) the allegations that form the basis of the  
11 complaint.

12                   Sec. 657.052. DECISION. (a) Not later than the 30th day  
13 after the date the public entity receives a complaint, the public  
14 entity shall issue a decision on the complaint and notify the  
15 applicant of the decision.

16                   (b) If the public entity determines that an individual  
17 should have been offered the position because of the preference  
18 granted under this chapter, the public entity shall offer to  
19 appoint or employ the applicant:

- 20                   (1) for the position; or  
21                   (2) for the next similar position that becomes  
22 available for which the individual meets the minimum  
23 qualifications.

24                   Sec. 657.053. REQUEST FOR HEARING. If a state agency  
25 determines under Section 657.052 that the applicant is not entitled  
26 under this chapter to be appointed or employed for the position, the  
27 applicant may request a hearing under Subchapter C.

1 [Sections 657.054-657.100 reserved for expansion]

2 SUBCHAPTER C. HEARING

3 Sec. 657.101. COMPLAINT; HEARING. (a) An applicant for  
4 employment with a state agency who is entitled to a veteran's  
5 employment preference under this chapter may appeal the state  
6 agency's hiring decision after following the complaint procedure in  
7 Subchapter B by filing a request for a hearing with the state  
8 agency.

9 (b) The applicant must request a hearing not later than the  
10 30th day after the date the applicant receives notice of the  
11 decision issued under section 657.052.

12 (c) Not later than the 10th day after the date the state  
13 agency receives a request for a hearing, the state agency shall  
14 refer the case to the State Office of Administrative Hearings for a  
15 hearing.

16 Sec. 657.102. HEARING PROCEDURES. (a) The State Office of  
17 Administrative Hearings shall conduct a hearing on the complaint  
18 not later than the 90th day after the date the office receives the  
19 complaint. An administrative law judge employed by the office  
20 shall conduct the hearing.

21 (b) A hearing conducted under this subchapter is a contested  
22 case under Chapter 2001.

23 Sec. 657.103. DECISION. (a) If the administrative law  
24 judge determines that the applicant should have been offered the  
25 position applied for because of the preference granted under this  
26 chapter, the individual responsible for making hiring decisions for  
27 the state agency shall:

1           (1) offer to appoint or employ the applicant for the  
2 position; or

3           (2) offer to appoint or employ the applicant for the  
4 next similar position that becomes available for which the  
5 applicant meets the minimum qualifications.

6           (b) The administrative law judge shall render the final  
7 decision in the contested case. The decision of the administrative  
8 law judge is not subject to judicial review.

9           Sec. 657.104. REPORT. The State Office of Administrative  
10 Hearings shall report to the governor, comptroller, and the  
11 legislature the number of hearings requested under this subchapter.

12           SECTION 10. The changes in law made by this Act to Chapter  
13 657, Government Code, apply to an application for employment only  
14 if the application is submitted on or after the effective date of  
15 this Act. An application submitted before the effective date of  
16 this Act is governed by the law in effect at the time the  
17 application is submitted, and the former law is continued in effect  
18 for that purpose.

19           SECTION 11. The changes in law made by this Act to Chapter  
20 657, Government Code, apply only to a public work for which a public  
21 entity first advertises or otherwise solicits bids, proposals,  
22 offers, or qualifications to perform any portion of the work on or  
23 after the effective date of this Act. A public work for which a  
24 public entity first advertised or otherwise solicited bids,  
25 proposals, offers, or qualifications to perform any portion of the  
26 work before that date is governed by the law in effect when the  
27 first advertisement or solicitation was given, and the former law



1 is continued in effect for that purpose.

2 SECTION 12. This Act takes effect September 1, 2007.