

1-1 By: Van de Putte S.B. No. 1454
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read
1-3 first time and referred to Committee on Veteran Affairs and
1-4 Military Installations; April 10, 2007, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 3,
1-6 Nays 0; April 10, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1454 By: Van de Putte
1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to veteran's employment preferences.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 657, Government Code, is amended by
1-13 designating Sections 657.001 through 657.009 as Subchapter A and
1-14 adding a heading for Subchapter A to read as follows:

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 SECTION 2. Section 657.001, Government Code, is amended by
1-17 adding Subdivisions (1-a) and (3) and amending Subdivision (2) to
1-18 read as follows:

1-19 (1-a) "Minimum qualifications" means the experience
1-20 and education to perform the essential tasks of a job identified in
1-21 the posting for the job.

1-22 (2) "Public entity" means:

1-23 (A) a state agency, including:

1-24 (i) a [public] department, commission,
1-25 board, authority, office, or other agency in the executive branch
1-26 of state government created by the constitution or a statute of this
1-27 state; or

1-28 (ii) a university system or an institution
1-29 of higher education as defined by Section 61.003, Education Code;
1-30 or

1-31 (B) a county, municipality, or district, a
1-32 district or other authority created under Section 52, Article III,
1-33 or Section 59, Article XVI, Texas Constitution, or any other
1-34 political subdivision of this state.

1-35 (3) "Public work of this state" means a project that is
1-36 the subject of a public work contract with a governmental entity to
1-37 which Chapter 2253 applies.

1-38 SECTION 3. Subchapter A, Chapter 657, Government Code, as
1-39 added by this Act, is amended by adding Section 657.0015 to read as
1-40 follows:

1-41 Sec. 657.0015. EXCEPTIONS. This chapter does not apply to:

1-42 (1) appointments made by the governor; or

1-43 (2) the employment of:

1-44 (A) a head of a division or department in a state
1-45 office or agency headed by a single elected state official; or

1-46 (B) a person who advises or reports directly to
1-47 an elected state official.

1-48 SECTION 4. Subsections (a) and (b), Section 657.002,
1-49 Government Code, are amended to read as follows:

1-50 (a) A veteran qualifies for a veteran's employment
1-51 preference if the veteran:

1-52 (1) served in the military for not less than 90
1-53 consecutive days during a national emergency declared in accordance
1-54 with federal law or was discharged from military service for an
1-55 established service-connected disability;

1-56 (2) was honorably discharged from military service;
1-57 and

1-58 (3) meets the minimum qualifications for the
1-59 position [is competent].

1-60 (b) A veteran's surviving spouse who has not remarried or an
1-61 orphan of a veteran qualifies for a veteran's employment preference
1-62 if:

1-63 (1) the veteran was killed while on active duty;

2-1 (2) the veteran served in the military for not less
2-2 than 90 consecutive days during a national emergency declared in
2-3 accordance with federal law; and

2-4 (3) the spouse or orphan meets the minimum
2-5 qualifications for the position [~~is competent~~].

2-6 SECTION 5. Subsections (a), (b), and (c), Section 657.003,
2-7 Government Code, are amended to read as follows:

2-8 (a) An individual who qualifies for a veteran's employment
2-9 preference is entitled to a preference in employment with or
2-10 appointment to a public entity or for a public work of this state
2-11 over other applicants for the same position who do not have [~~a~~]
2-12 greater qualifications for the position [~~qualification~~].

2-13 (b) An individual who has an established service-connected
2-14 disability and is entitled to a veteran's employment preference is
2-15 entitled to preference for employment or appointment in a position
2-16 [~~for which a competitive examination is not held~~] over all other
2-17 applicants for the same position who are without a
2-18 service-connected disability and who do not have [~~a~~] greater
2-19 qualifications for the position [~~qualification~~].

2-20 (c) If a public entity or public work of this state requires
2-21 a competitive examination under a merit system or civil service
2-22 plan for selecting or promoting employees, an individual entitled
2-23 to a veteran's employment preference who meets the minimum
2-24 qualifications [~~otherwise is qualified~~] for that position and who
2-25 has received at least the minimum required score for the test is
2-26 entitled to have an additional [~~a service~~] credit added to the
2-27 individual's test score of:

2-28 (1) at least 10 percent; or

2-29 (2) for an [~~of 10 points added to the test score. An~~]
2-30 individual who has an established service-connected disability, at
2-31 least 15 percent [~~is entitled to have a service credit of five~~
2-32 ~~additional points added to the individual's test score~~].

2-33 SECTION 6. Subsection (a), Section 657.005, Government Code,
2-34 is amended to read as follows:

2-35 (a) The individual whose duty is to appoint or employ an
2-36 applicant for a position with a public entity or public work of this
2-37 state or an officer or the chief administrator of the entity or work
2-38 who receives an application for appointment or employment by an
2-39 individual entitled to a veteran's employment preference, before
2-40 appointing or employing any individual, shall investigate the
2-41 qualifications of the applicant for the position. If the applicant
2-42 is of good moral character and can perform the duties of the
2-43 position and no other applicant for the position has greater
2-44 qualifications than the applicant entitled to a veteran's
2-45 employment preference, the officer, chief executive, or individual
2-46 whose duty is to appoint or employ shall appoint or employ the
2-47 applicant for the position.

2-48 SECTION 7. Subsection (b), Section 657.007, Government
2-49 Code, is amended to read as follows:

2-50 (b) The preference granted under this section applies only
2-51 to the extent that a reduction in workforce by an employing public
2-52 entity involves other employees of the same [~~a similar type or~~]
2-53 classification.

2-54 SECTION 8. Section 657.008, Government Code, is amended to
2-55 read as follows:

2-56 Sec. 657.008. REPORTING REQUIREMENTS. (a) A state agency
2-57 [~~public entity~~] shall file quarterly with the comptroller a report
2-58 that states:

2-59 (1) any measures taken by the state agency during the
2-60 quarter to inform individuals entitled to a hiring preference under
2-61 this chapter of their rights under this chapter;

2-62 (2) the appeals process available through the state
2-63 agency to an individual entitled to a hiring preference under this
2-64 chapter who alleges that the state agency violated the individual's
2-65 rights under this chapter;

2-66 (3) the percentage of the total number of employees
2-67 hired by the state agency [~~entity~~] during the reporting period who
2-68 are persons entitled to a preference under this chapter; and

2-69 (4) [~~(2)~~] the percentage of the total number of the

3-1 agency's [~~entity's~~] employees who are persons entitled to a
3-2 preference under this chapter.

3-3 (b) The comptroller shall file annually with the
3-4 legislature a report that compiles and analyzes information that
3-5 the comptroller receives from state agencies [~~public entities~~]
3-6 under Subsection (a).

3-7 SECTION 9. Chapter 657, Government Code, is amended by
3-8 adding Subchapters B and C to read as follows:

3-9 SUBCHAPTER B. COMPLAINT TO PUBLIC ENTITY

3-10 Sec. 657.051. COMPLAINT PROCEDURE. (a) An individual who
3-11 is entitled to a veteran's employment preference under this chapter
3-12 may appeal a hiring decision made by a public entity by filing a
3-13 written complaint with the public entity not later than the 30th day
3-14 after the date the individual receives notice of the hiring
3-15 decision.

3-16 (b) The individual must state in the complaint:

3-17 (1) the name of the public entity; and

3-18 (2) the allegations that form the basis of the
3-19 complaint.

3-20 Sec. 657.052. DECISION. (a) Not later than the 30th day
3-21 after the date the public entity receives a complaint, the public
3-22 entity shall issue a decision on the complaint.

3-23 (b) If the public entity determines that an individual
3-24 should have been offered the position because of the preference
3-25 granted under this chapter, the public entity shall offer to
3-26 appoint or employ the applicant:

3-27 (1) for the position; or

3-28 (2) for the next similar position that becomes
3-29 available for which the individual meets the minimum
3-30 qualifications.

3-31 Sec. 657.053. REQUEST FOR HEARING. If a state agency
3-32 determines under Section 657.052 that the applicant is not entitled
3-33 under this chapter to be appointed or employed for the position, the
3-34 applicant may request a hearing under Subchapter C.

3-35 [Sections 657.054-657.100 reserved for expansion]

3-36 SUBCHAPTER C. HEARING

3-37 Sec. 657.101. COMPLAINT; HEARING. An applicant for
3-38 employment with a state agency who is entitled to a veteran's
3-39 employment preference under this chapter may appeal the state
3-40 agency's hiring decision after following the complaint procedure in
3-41 Subchapter B by filing a request for a hearing with the state
3-42 agency. Not later than the 10th day after the date the state agency
3-43 receives a request for a hearing, the state agency shall refer the
3-44 case to the State Office of Administrative Hearings for a hearing.

3-45 Sec. 657.102. HEARING PROCEDURES. (a) The State Office of
3-46 Administrative Hearings shall conduct a hearing on the complaint
3-47 not later than the 90th day after the date the office receives the
3-48 complaint. An administrative law judge employed by the office
3-49 shall conduct the hearing.

3-50 (b) A hearing conducted under this subchapter is a contested
3-51 case under Chapter 2001.

3-52 Sec. 657.103. DECISION. (a) If the administrative law
3-53 judge determines that the applicant should have been offered the
3-54 position applied for because of the preference granted under this
3-55 chapter, the individual responsible for making hiring decisions for
3-56 the state agency shall:

3-57 (1) offer to appoint or employ the applicant for the
3-58 position; or

3-59 (2) offer to appoint or employ the applicant for the
3-60 next similar position that becomes available for which the
3-61 applicant meets the minimum qualifications.

3-62 (b) The administrative law judge shall render the final
3-63 decision in the contested case. The decision of the administrative
3-64 law judge is not subject to judicial review.

3-65 SECTION 10. Subsections (a) and (c), Section 657.004,
3-66 Government Code, are repealed.

3-67 SECTION 11. The changes in law made by this Act to Chapter
3-68 657, Government Code, apply to an application for employment only
3-69 if the application is submitted on or after the effective date of

4-1 this Act. An application submitted before the effective date of
4-2 this Act is governed by the law in effect at the time the
4-3 application is submitted, and the former law is continued in effect
4-4 for that purpose.

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

4-15 SECTION 13. This Act takes effect September 1, 2007.

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