

Amend **HB 3872** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. 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 amending Subdivision (2) and adding Subdivision (3) to read as follows:

(2) "Minimum qualifications" means the experience and education to perform the essential tasks of a job identified in the posting for the job.

(3) "Public entity" means a state agency, including a ~~[public]~~ department, commission, board, authority, office, or other agency.

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

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

(1) appointments made by the governor; or

(2) the employment of:

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

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

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

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

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

(2) was honorably discharged from military service;
and

(3) meets the minimum qualifications for the

position ~~[is competent]~~.

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

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

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

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

SECTION 5. Sections 657.003(a) and (b), Government Code, are amended to read as follows:

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

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

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

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

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

(b) 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 the same ~~[a similar type or]~~ classification.

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

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

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

(2) the appeals process available through the state

agency to an individual entitled to a hiring preference under this chapter who alleges that the state agency violated the individual's rights under this chapter;

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

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

~~[(3) the number of complaints filed with the governing body of the entity under Section 657.010 during that quarter and the number of those complaints resolved by the governing body].~~

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

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

SUBCHAPTER B. COMPLAINT TO PUBLIC ENTITY

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

(b) The individual must state in the complaint:

(1) the name of the public entity; and

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

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

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

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

SUBCHAPTER C. HEARING

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

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

(c) Not later than the 15th day after the date the state
agency receives a request for a hearing, the state agency shall
refer the case to the agency's governing board.

Sec. 657.102. DECISION. If the agency's governing board
determines that the applicant should have been offered the position
applied for because of the preference granted under this chapter,
the individual responsible for making hiring decisions for the
state agency shall:

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

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

SECTION 10. Section 657.010, Government Code, is repealed.

SECTION 11. The changes in law made by this Act to Chapter 657, Government Code, apply to an application for employment only if the application is submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect at the time the application is submitted, and the former law is continued in effect for that purpose.

SECTION 12. The changes in law made by this Act to Chapter 657, Government Code, apply only to a public work for which a public

entity first advertises or otherwise solicits bids, proposals, offers, or qualifications to perform any portion of the work on or after the effective date of this Act. A public work for which a public entity first advertised or otherwise solicited bids, proposals, offers, or qualifications to perform any portion of the work before that date is governed by the law in effect when the first advertisement or solicitation was given, and the former law is continued in effect for that purpose.

SECTION 13. This Act takes effect September 1, 2009.