BILL ANALYSIS

Senate Research Center
80R967 MCK-F

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S.B. 1454
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3/26/2007
As Filed

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Chapter 657, Government Code, outlines a hiring preference for veterans for public entities. This preference has existed since directly after the Second World War. Under the current statute, it is unclear how the hiring preference is to be applied, what entities are considered "public entities," and what a veteran can do if he or she feels the preference has been denied.

As proposed, S.B. 1454 clarifies the definition of a public entity, modernizes the language of the veteran's employment preference statute, and provides a course of action for a veteran who feels wronged by a hiring entity.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 657, Government Code, by designating Sections 657.001-657.009 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Amends Section 657.001, Government Code, by amending Subdivision (2) to redefine "public entity" and adding Subdivisions (1-a) and (3) to define "minimum qualifications" and "public work of this state."

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

Sec. 657.0015. EXCEPTION FOR GOVERNOR APPOINTMENTS. Provides that this chapter does not apply to appointments made by the governor.

SECTION 4. Amends Sections 657.002(a) and (b), Government Code, as follows:

(a) Provides that a veteran qualifies for a veteran's employment preference if the veteran meets the minimum qualifications for the position, rather than is competent.

(b) Provides that a veteran's surviving spouse who has not remarried or orphan qualifies for a veteran's employment preference if the spouse or orphan meets the minimum qualifications for the position, rather than is competent.

SECTION 5. Amends Sections 657.003(a), (b), and (c), Government Code, as follows:

(a) Entitles an individual who qualifies for a veteran's employment preference 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 greater qualifications for the position, rather than a qualification.

(b) Provides that 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, rather than 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 greater qualifications for the position. Makes a conforming change.

(c) Provides that an individual entitled to a veteran's employment preference who meets the minimum qualifications, rather than who is otherwise qualified, for that position and who has received at least the minimum required score for the test is entitled to have an additional credit of at least 10 percent, rather than a service credit of 10 points, added to the test score, if a public entity or public work of this state requires a competitive examination under a merit system or civil service plan for selecting or promoting employees. Requires the additional credit for an individual who has an established service-connected disability to be equal to 1-1/2 times the credit a nondisabled veteran receives under this section. Deletes existing text entitling an individual who has an established service-connected disability to have a service credit of five additional points added to the individual's test score.

SECTION 6. Amends Section 657.007(b), Government Code, to provide that 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 classification, rather than a similar type or classification.

SECTION 7. Amends Section 657.008(a), Government Code, as follows:

(a) Requires a public entity to file quarterly with the comptroller of public accounts a report that states any measures taken by the public entity to inform individuals entitled to a hiring preference under this chapter of their rights under this chapter and the appeals process available through the public entity to an individual entitled to a hiring preference under this chapter who alleges that the public entity violated the individual's rights under this chapter.

SECTION 8. Amends Chapter 657, Government Code, by adding Subchapters B and C, as follows:

SUBCHAPTER B. COMPLAINT TO PUBLIC ENTITY

Sec. 657.051. COMPLAINT PROCEDURE. (a) Authorizes an individual who is entitled to a veteran's employment preference under this chapter to 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 hiring decision is made.

(b) Requires the individual to state certain information in the complaint.

Sec. 657.052. NOTICE OF REMEDIES. Requires the public entity to inform the individual in writing of the remedies available through the public entity not later than the 30th day after the date the public entity receives a complaint.

Sec. 657.053. DECISION. (a) Requires the public entity to issue a decision on the complaint not later than the 60th day after the date the public entity receives a complaint.

(b) Requires the public entity to take certain action if the public entity determines that an individual should have been offered the position because of the preference granted under this chapter.

(c) Authorizes the applicant to request a hearing under Subchapter C if the public entity determines that the applicant is not entitled under this chapter to be appointed or employed for the position.

SUBCHAPTER C. HEARING

Sec. 657.101. COMPLAINT; HEARING. Authorizes an applicant for employment with or appointment to a public entity who is entitled to a veteran's employment preference under this chapter to appeal the public entity's hiring decision after following the complaint procedure in Subchapter B by filing a complaint with the State Office of Administrative Hearings (SOAH).

Sec. 657.102. HEARING PROCEDURES. (a) Requires SOAH to conduct a hearing on the complaint not later than the 90th day after the date SOAH receives the complaint. Requires an administrative law judge employed by SOAH to conduct the hearing.

> (b) Provides that a hearing conducted under this subchapter is a contested case under Chapter 2001 (Administrative Procedure), Government Code.

Sec. 657.103. DECISION; APPEAL. (a) Requires the individual responsible for making hiring decisions for the public entity to take certain action if the administrative law judge determines that the applicant should have been offered the position applied for because of the preference granted under this chapter.

> (b) Requires the administrative law judge to render the final decision in the contested case. Provides that SOAH is the entity with which a motion for rehearing or a reply to a motion for rehearing is filed under Section 2001.146, that acts on a motion for rehearing or extends a time period under Section 2001.146, and that is responsible for sending to the parties, in accordance with Section 2001.142, a copy of the decision that may become final under Section 2001.144 or of an order ruling on a motion for rehearing.

> (c) Provides that the decision of the administrative law judge is subject to judicial review as provided by Subchapter G (Contested Cases: Judicial Review), Chapter 2001.

SECTION 9. Repealer: Sections 657.004(a) (relating to veteran's employment preference) and (c) (relating to an exemption), Government Code.

SECTION 10. Makes application of this Act prospective.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 2007.