

By Senators Brown-Waite, Clary and Meadows

10-112-98

1 A bill to be entitled
2 An act relating to veterans' preference in
3 employment; transferring and renumbering s.
4 295.15, F.S., relating to legislative intent;
5 amending s. 295.07, F.S.; clarifying
6 provisions; providing for rules; amending s.
7 295.08, F.S.; revising provisions with respect
8 to positions for which a numerically based
9 selection process is used; removing a monetary
10 limitation with respect to certain classes of
11 positions; amending s. 295.085, F.S.; revising
12 provisions with respect to positions for which
13 a numerically based selection process is not
14 used; providing for preference for certain
15 veterans with service-connected disabilities;
16 deleting provisions for rules; amending s.
17 295.101, F.S.; revising provisions with respect
18 to the expiration of employment preference;
19 amending s. 295.11, F.S.; revising provisions
20 with respect to investigative findings;
21 deleting reference to the Department of
22 Management Services and providing reference to
23 the Department of Veterans Affairs; amending s.
24 295.14, F.S.; revising provisions with respect
25 to penalties; repealing s. 295.151, F.S.,
26 relating to the application of ch. 78-372, Laws
27 of Florida, with respect to point preference to
28 certain persons in applying for employment;
29 creating s. 295.155, F.S.; providing that
30 military retirement on the basis of longevity
31 does not disqualify a person from veterans'

1 employment preference; providing an effective
2 date.

3
4 WHEREAS, it is the policy of the State of Florida that
5 in appreciation for their service to this state and the
6 country, and in recognition of the time and advantage lost
7 toward the pursuit of a civilian career, veterans as defined
8 in section 295.07, Florida Statutes, shall be granted
9 preference in employment with the state and political
10 subdivisions of or in the state, and

11 WHEREAS, except for a veteran who has an absolute
12 preference for employment by virtue of a 30 percent or more
13 service-connected disability, a veteran applying for a
14 position using veterans' preference must be equally or better
15 qualified for the position than the nonveteran applicant, and

16 WHEREAS, veterans' preference alone does not assure the
17 employment of a veteran who is not fully qualified by
18 experience or training to fulfill the requirements of the
19 position, NOW, THEREFORE,

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 295.15, Florida Statutes, is
24 transferred and renumbered as section 295.065, Florida
25 Statutes.

26 Section 2. Section 295.07, Florida Statutes, is
27 amended to read:

28 295.07 Preference in appointment and retention.--

29 (1) The state and ~~its~~ political subdivisions in the
30 state shall give preference in appointment and retention in
31 positions of employment to:

1 (a) Those disabled veterans:
2 1. Who have served on active duty in any branch of the
3 Armed Forces of the United States, have been separated
4 therefrom under honorable conditions, and have established the
5 present existence of a service-connected disability which is
6 compensable under public laws administered by the U.S.
7 Department of Veterans' Affairs, or
8 2. Who are receiving compensation, disability
9 retirement benefits, or pension by reason of public laws
10 administered by the U.S. Department of Veterans' Affairs and
11 the Department of Defense.
12 (b) The spouse of any person who has a total
13 disability, permanent in nature, resulting from a
14 service-connected disability and who, because of this
15 disability, cannot qualify for employment, and the spouse of
16 any person missing in action, captured in line of duty by a
17 hostile force, or forcibly detained or interned in line of
18 duty by a foreign government or power.
19 (c) A veteran of any war as defined in s. 1.01(14).
20 (d) The unremarried widow or widower of a veteran who
21 died of a service-connected disability.
22 (2) The Department of Veterans' Affairs shall adopt
23 rules to ensure that veterans are given special consideration
24 in the employing agency's selection and retention processes.
25 The rules must include the award of point values as
26 articulated in s. 295.08, if applicable, or, where point
27 values are not relevant, must include procedures to ensure
28 that veterans are given special consideration at each step of
29 the employment selection process.
30
31

1 (3) Preference in employment and retention may be
2 given only to eligible persons who are described in subsection
3 (1) and who are residents of this state.

4 ~~(4)(2)~~ The following positions are ~~shall be~~ exempt
5 from ~~the provisions of~~ this section:

6 (a) Those positions that are exempt from the state
7 Career Service System under s. 110.205(2); however, all
8 positions under the University Support Personnel System of the
9 State University System as well as all Career Service System
10 positions under the State Community College System and the
11 School for the Deaf and the Blind are ~~shall be~~ included.

12 (b) ~~Those~~ Positions in political subdivisions of the
13 state which ~~that~~ are filled by officers elected by popular
14 vote or persons appointed to fill vacancies in such offices
15 and the personal secretary of each such officer, members of
16 boards and commissions, persons employed on a temporary basis
17 without benefits, city managers and county managers, heads of
18 departments, management positions, policymaking positions,
19 positions that ~~which~~ require licensure as a physician,
20 licensure as an osteopathic physician, licensure as a
21 chiropractic physician, and positions that ~~which~~ require that
22 the employee be a member of The Florida Bar.

23 Section 3. Section 295.08, Florida Statutes, is
24 amended to read:

25 295.08 Positions for which a numerically based
26 selection process is used ~~Competitive examination systems~~
27 ~~preference points; professional and scientific services.~~ --For
28 those positions for which an examination is used to determine
29 the qualifications for entrance into employment with the state
30 or ~~its~~ political subdivisions in the state, 10 points shall be
31 added to the earned ratings of any person included under s.

1 295.07(1)(a) or (b), and 5 points shall be added to the earned
2 rating of any person included under s. 295.07(1)(c) and (d),
3 if the ~~provided that~~ such person has obtained a qualifying
4 score on the examination for the position. The names of
5 persons eligible for preference shall be entered on an
6 appropriate register or list in accordance with their
7 respective augmented ratings. However, except for classes of
8 positions with Federal Government designations of professional
9 or technician ~~for which the lowest range of the salary is over~~
10 ~~\$9,000 per annum~~, the names of all persons qualified to
11 receive a 10-point preference whose service-connected
12 disabilities have been rated by the United States Department
13 of Veterans Affairs or its predecessor or the Department of
14 Defense to be 30 percent or more shall be placed at the top of
15 the appropriate register or employment list, in accordance
16 with their respective augmented ratings. The respective
17 augmented rating is the examination score or evaluated score
18 in addition to the applicable veteran's preference points.

19 Section 4. Section 295.085, Florida Statutes, is
20 amended to read:

21 295.085 Positions for which a numerically based
22 selection process ~~where an examination is not used~~ utilized;
23 ~~preferences.--~~

24 (1) In all positions in which the appointment or
25 employment of persons is not subject to a written examination,
26 with the exception of ~~those~~ positions that ~~which~~ are exempt
27 under pursuant to s. 295.07(2), first preference in
28 appointment, and employment, and retention shall be given by
29 the state and ~~its~~ political subdivisions in the state ~~first~~ to
30 ~~those~~ persons included under s. 295.07(1)(a) and (b), and
31 second preference shall be given to ~~those~~ persons included

1 under s. 295.07(1)(c) and (d) who, ~~provided such persons~~
2 possess the minimum qualifications necessary to the discharge
3 of the duties of the position involved.

4 ~~(2) The Department of Veterans' Affairs shall be~~
5 ~~responsible for promulgating such rules or procedures as to~~
6 ~~ensure that those persons defined in s. 295.07 are given~~
7 ~~special consideration in the employing agency's selection and~~
8 ~~retention processes. These procedures shall include the award~~
9 ~~of point values as articulated in s. 295.08 if applicable, or~~
10 ~~where such point values are not relevant, shall include~~
11 ~~procedures to ensure those persons defined in s. 295.07 are~~
12 ~~given special consideration at each step of the employment~~
13 ~~selection process and are given special consideration in the~~
14 ~~retention of employees where layoffs are necessitated.~~

15 Section 5. Section 295.101, Florida Statutes, is
16 amended to read:

17 295.101 Employment preference; expiration.--A
18 veteran's employment preference ~~shall expires~~ be deemed to
19 ~~have expired~~ after a person eligible pursuant to s. 295.07 has
20 applied and been employed by the any state or any agency of a
21 political subdivision in ~~of~~ the state.

22 Section 6. Subsections (1) and (3) of section 295.11,
23 Florida Statutes, are amended to read:

24 295.11 Investigation; administrative hearing for not
25 employing preferred applicant.--

26 (1) The Department of Veterans' Affairs or its
27 designee shall, upon the written request of any person
28 specified in s. 295.07, investigate any complaint filed with
29 the department by such person when the person has applied to
30 ~~made application with~~ any state agency or any agency of a
31 political subdivision in ~~of~~ the state for a position of

1 employment which was awarded to a nonveteran and the person
2 feels aggrieved under this chapter. The ~~Such~~ investigation
3 must ~~shall~~ be accomplished within existing amounts
4 appropriated to the department.

5 (3) When a satisfactory resolution to the complaint is
6 not forthcoming, any ~~the~~ department of the state or political
7 subdivision in the state may its designee shall, upon written
8 request of the complainant and with advisory assistance from
9 the Department of Management Services, testify telephonically
10 or in person at the discretion of the Public Employee
11 Relations Commission ~~hearing as to the investigative findings.~~
12 The complainant, however, may be represented at the hearing by
13 counsel of his or her choice at his or her expense.

14 Section 7. Subsection (1) of section 295.14, Florida
15 Statutes, is amended to read:

16 295.14 Penalties.--

17 (1) When the Public Employees Relations Commission,
18 after a hearing on notice conducted according to rules adopted
19 ~~promulgated~~ by the commission, determines that a violation of
20 s. 295.07, s. 295.08, s. 295.085(1), or s. 295.09(1)(a) or (b)
21 has occurred and sustains the veteran seeking redress, the
22 commission shall order the offending agency, employee, or
23 officer of the state to comply with the provisions of s.
24 295.07, s. 295.08, s. 295.085(1), or s. 295.09(1)(a) or (b);
25 and, in the event of a violation of s. 295.07, s. 295.08, s.
26 295.085(1) or s. 295.09(1)(a) or (b), the commission may issue
27 an order to compensate the ~~such~~ veteran for the loss of any
28 wages and reasonable attorney's fees for actual hours worked,
29 and costs of all work, including litigation, incurred as a
30 result of such violation, which order shall be conclusive on
31 the agency, employee, or officer concerned. The attorney's

1 fees and costs may not exceed \$7,500.The action of the
2 commission shall be in writing and shall be served on the
3 parties concerned by certified mail with return receipt
4 requested.

5 Section 8. Section 295.151, Florida Statutes, is
6 repealed.

7 Section 9. Section 295.155, Florida Statutes, is
8 created to read:

9 295.155 Military retirement based on
10 longevity.--Military retirement on the basis of longevity does
11 not disqualify a person eligible under s. 295.07 from
12 veterans' employment preference.

13 Section 10. This act shall take effect upon becoming a
14 law.

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17 SENATE SUMMARY

18 Revises provisions of law relating to veterans'
19 preference in employment; revises provisions with respect
20 to positions for which a numerically based selection
21 process is used; revises provisions with respect to
22 positions for which a numerically based selection process
23 is not used to provide a preference to described veterans
24 with service-connected disabilities; revises penalty
25 provisions to allow for reasonable attorney's fees for
26 actual hours worked and costs of all work, including
27 litigation up to a maximum of \$7,500; provides that
28 military retirement on the basis of longevity does not
29 disqualify a person from veterans' employment preference;
30 and allows any department of the state or political
31 subdivision in the state to testify at hearings before
the Public Employees Relations Commission (PERC)
telephonically or in person, at the discretion of PERC.