

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          providing for the dismissal of a complaint;  
22          deleting reference to the Department of  
23          Management Services and providing reference to  
24          the Department of Veterans Affairs; amending s.  
25          295.14, F.S.; revising provisions with respect  
26          to penalties; repealing s. 295.151, F.S.,  
27          relating to the application of ch. 78-372, Laws  
28          of Florida, with respect to point preference to  
29          certain persons in applying for employment;  
30          creating s. 295.155, F.S.; providing that  
31          military retirement on the basis of longevity

1 does not disqualify a person from veterans'  
2 employment preference; providing an effective  
3 date.  
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5 WHEREAS, it is the policy of the State of Florida that  
6 in appreciation for their service to this state and the  
7 country, and in recognition of the time and advantage lost  
8 toward the pursuit of a civilian career, veterans as defined  
9 in section 295.07, Florida Statutes, shall be granted  
10 preference in employment with the state and political  
11 subdivisions of or in the state, and

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

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

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

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

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

29 295.07 Preference in appointment and retention.--  
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1           (1) The state and ~~its~~ political subdivisions in the  
2 state shall give preference in appointment and retention in  
3 positions of employment to:

4           (a) Those disabled veterans:

5           1. Who have served on active duty in any branch of the  
6 Armed Forces of the United States, have been separated  
7 therefrom under honorable conditions, and have established the  
8 present existence of a service-connected disability which is  
9 compensable under public laws administered by the U.S.  
10 Department of Veterans' Affairs, or

11           2. Who are receiving compensation, disability  
12 retirement benefits, or pension by reason of public laws  
13 administered by the U.S. Department of Veterans' Affairs and  
14 the Department of Defense.

15           (b) The spouse of any person who has a total  
16 disability, permanent in nature, resulting from a  
17 service-connected disability and who, because of this  
18 disability, cannot qualify for employment, and the spouse of  
19 any person missing in action, captured in line of duty by a  
20 hostile force, or forcibly detained or interned in line of  
21 duty by a foreign government or power.

22           (c) A veteran of any war as defined in s. 1.01(14).

23           (d) The unremarried widow or widower of a veteran who  
24 died of a service-connected disability.

25           (2) The Department of Veterans' Affairs shall adopt  
26 rules to ensure that veterans are given special consideration  
27 in the employing agency's selection and retention processes.  
28 The rules must include the award of point values as  
29 articulated in s. 295.08, if applicable, or, where point  
30 values are not relevant, must include procedures to ensure  
31 that veterans are given special consideration at each step of

1 the employment selection process, unless the sponsoring  
2 governmental entity is a party to a collective bargaining  
3 agreement, in which case the plan must comply within 90 days  
4 following ratification of a successor collective bargaining  
5 agreement or extension of any existing collective bargaining  
6 agreement.

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

10 (4)(2) The following positions are shall be exempt  
11 from the provisions of this section:

12 (a) Those positions that are exempt from the state  
13 Career Service System under s. 110.205(2); however, all  
14 positions under the University Support Personnel System of the  
15 State University System as well as all Career Service System  
16 positions under the State Community College System and the  
17 School for the Deaf and the Blind are shall be included.

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

29 Section 3. Section 295.08, Florida Statutes, is  
30 amended to read:

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1           295.08 Positions for which a numerically based  
2 selection process is used ~~Competitive examination systems~~  
3 ~~preference points; professional and scientific services.--For~~  
4 ~~those~~ positions for which an examination is used to determine  
5 the qualifications for entrance into employment with the state  
6 or ~~its~~ political subdivisions in the state, 10 points shall be  
7 added to the earned ratings of any person included under s.  
8 295.07(1)(a) or (b), and 5 points shall be added to the earned  
9 rating of any person included under s. 295.07(1)(c) and (d),  
10 if the ~~provided that such~~ person has obtained a qualifying  
11 score on the examination for the position. The names of  
12 persons eligible for preference shall be entered on an  
13 appropriate register or list in accordance with their  
14 respective augmented ratings. However, except for classes of  
15 positions with Federal Government designations of professional  
16 or technician ~~for which the lowest range of the salary is over~~  
17 ~~\$9,000 per annum~~, the names of all persons qualified to  
18 receive a 10-point preference whose service-connected  
19 disabilities have been rated by the United States Department  
20 of Veterans Affairs or its predecessor or the Department of  
21 Defense to be 30 percent or more shall be placed at the top of  
22 the appropriate register or employment list, in accordance  
23 with their respective augmented ratings. The respective  
24 augmented rating is the examination score or evaluated score  
25 in addition to the applicable veteran's preference points.

26           Section 4. Section 295.085, Florida Statutes, is  
27 amended to read:

28           295.085 Positions for which a numerically based  
29 selection process ~~where an examination is not~~ utilized  
30 ~~preferences.--~~  
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1           ~~(1)~~ In all positions in which the appointment or  
 2 employment of persons is not subject to a written examination,  
 3 with the exception of ~~those positions that~~ which are exempt  
 4 under ~~pursuant to~~ s. 295.07(2), first preference in  
 5 appointment, ~~and~~ employment, and retention shall be given by  
 6 the state and ~~its~~ political subdivisions in the state ~~first~~ to  
 7 ~~those~~ persons included under s. 295.07(1)(a) and (b), and  
 8 second preference shall be given to those persons included  
 9 under s. 295.07(1)(c) and (d) who, ~~provided such persons~~  
 10 possess the minimum qualifications necessary to ~~the~~ discharge  
 11 of the duties of the position involved.

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

23           Section 5. Section 295.101, Florida Statutes, is  
 24 amended to read:

25           295.101 Employment preference; expiration.--A  
 26 veteran's employment preference ~~shall~~ expires ~~be deemed to~~  
 27 ~~have expired~~ after a person eligible pursuant to s. 295.07 has  
 28 applied and been employed by the ~~any~~ state or any agency of a  
 29 political subdivision in ~~of~~ the state.

30           Section 6. Section 295.11, Florida Statutes, is  
 31 amended to read:

1           295.11 Investigation; administrative hearing for not  
2 employing preferred applicant.--

3           (1) The Department of Veterans' Affairs or its  
4 designee shall, upon the written request of any person  
5 specified in s. 295.07, investigate any complaint filed with  
6 the department by such person when the person has applied to  
7 ~~made application with~~ any state agency or any agency of a  
8 political subdivision in ~~of~~ the state for a position of  
9 employment which was awarded to a nonveteran and the person  
10 feels aggrieved under this chapter. The Department of  
11 Veterans' Affairs shall review each case and may issue an  
12 opinion to the Public Employees Relations Commission as to the  
13 merit or lack of merit in each case. The ~~Such~~ investigation  
14 must ~~shall~~ be accomplished within existing amounts  
15 appropriated to the department.

16           (3) When a satisfactory resolution to the complaint is  
17 not forthcoming, any ~~the~~ department of the state or political  
18 subdivision in the state may ~~its designee shall, upon written~~  
19 ~~request of the complainant and with advisory assistance from~~  
20 ~~the Department of Management Services, testify telephonically~~  
21 or in person at the discretion of the Public Employees  
22 ~~Employee Relations Commission hearing as to the investigative~~  
23 ~~findings.~~ The complainant, however, may be represented at the  
24 hearing by counsel of his or her choice at his or her expense.

25           (4) Jurisdiction to effectuate the purposes of ss.  
26 295.07-295.09 shall vest with the Public Employees Relations  
27 Commission for appropriate administrative determination. If,  
28 upon preliminary review of the Public Employees Relations  
29 Commission, the commission agrees with the department's  
30 determination that a case lacks merit and finds, in its  
31 discretion, that there was a complete absence of justiciable

1 issues of either law or fact raised by the  
2 veterans'-preference complaint, the Public Employees Relations  
3 Commission shall dismiss the complaint without the necessity  
4 of holding a hearing.

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

7 295.14 Penalties.--

8 (1) When the Public Employees Relations Commission,  
9 after a hearing on notice conducted according to rules adopted  
10 promulgated by the commission, determines that a violation of  
11 s. 295.07, s. 295.08, s. 295.085(1), or s. 295.09(1)(a) or (b)  
12 has occurred and sustains the veteran seeking redress, the  
13 commission shall order the offending agency, employee, or  
14 officer of the state to comply with the provisions of s.  
15 295.07, s. 295.08, s. 295.085(1), or s. 295.09(1)(a) or (b);  
16 and, in the event of a violation of s. 295.07, s. 295.08, s.  
17 295.085(1) or s. 295.09(1)(a) or (b),the commission may issue  
18 an order to compensate the such veteran for the loss of any  
19 wages and reasonable attorney's fees for actual hours worked,  
20 and costs of all work, including litigation, incurred as a  
21 result of such violation, which order shall be conclusive on  
22 the agency, employee, or officer concerned. The attorney's  
23 fees and costs may not exceed \$10,000.The action of the  
24 commission shall be in writing and shall be served on the  
25 parties concerned by certified mail with return receipt  
26 requested.

27 Section 8. Section 295.151, Florida Statutes, is  
28 repealed.

29 Section 9. Section 295.155, Florida Statutes, is  
30 created to read:

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1           295.155 Military retirement based on  
2 longevity.--Military retirement on the basis of longevity does  
3 not disqualify a person eligible under s. 295.07 from  
4 veterans' employment preference.

5           Section 10. This act shall take effect upon becoming a  
6 law.

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