

By the Committee on Local Government & Veterans Affairs
and Representative Sorensen

1 A bill to be entitled
2 An act relating to preference in appointment
3 and retention of public employees; amending s.
4 295.07, F.S.; eliminating the exemption of
5 specified positions from provisions which
6 require the state and political subdivisions in
7 the state to give preference in appointment and
8 retention in positions of employment to
9 specified veterans and spouses of specified
10 veterans and military personnel; reenacting s.
11 295.14, F.S.; providing penalties; reenacting
12 ss. 110.2135(1), 295.08, 295.085, 295.09,
13 295.101, 295.11, 295.155, 296.04(3), and
14 296.34(1), F.S., to incorporate the amendment
15 to s. 295.07, F.S., in references thereto;
16 providing an effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Section 295.07, Florida Statutes, is
21 amended to read:

22 295.07 Preference in appointment and retention.--

23 (1) The state and political subdivisions in the state
24 shall give preference in appointment and retention in
25 positions of employment to:

26 (a) Those disabled veterans:

27 1. Who have served on active duty in any branch of the
28 Armed Forces of the United States, have been separated
29 therefrom under honorable conditions, and have established the
30 present existence of a service-connected disability which is
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1 compensable under public laws administered by the U.S.
2 Department of Veterans' Affairs, or
3 2. Who are receiving compensation, disability
4 retirement benefits, or pension by reason of public laws
5 administered by the U.S. Department of Veterans' Affairs and
6 the Department of Defense.
7 (b) The spouse of any person who has a total
8 disability, permanent in nature, resulting from a
9 service-connected disability and who, because of this
10 disability, cannot qualify for employment, and the spouse of
11 any person missing in action, captured in line of duty by a
12 hostile force, or forcibly detained or interned in line of
13 duty by a foreign government or power.
14 (c) A veteran of any war as defined in s. 1.01(14).
15 (d) The unremarried widow or widower of a veteran who
16 died of a service-connected disability.
17 (2) The Department of Veterans' Affairs shall adopt
18 rules to ensure that veterans are given special consideration
19 in the employing agency's selection and retention processes.
20 The rules must include the award of point values as
21 articulated in s. 295.08, if applicable, or, where point
22 values are not relevant, must include procedures to ensure
23 that veterans are given special consideration at each step of
24 the employment selection process, unless the sponsoring
25 governmental entity is a party to a collective bargaining
26 agreement, in which case the collective bargaining agreement
27 must comply within 90 days following ratification of a
28 successor collective bargaining agreement or extension of any
29 existing collective bargaining agreement.
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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) The following positions are exempt from this
5 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 Florida Community College System and the
11 School for the Deaf and the Blind are included.

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

23 Section 2. For the purpose of incorporating the
24 amendment to section 295.07, Florida Statutes, in references
25 thereto, the sections or subdivisions of Florida Statutes set
26 forth below are reenacted to read:

27 295.14 Penalties.--

28 (1) When the Public Employees Relations Commission,
29 after a hearing on notice conducted according to rules adopted
30 by the commission, determines that a violation of s. 295.07,
31 s. 295.08, s. 295.085, or s. 295.09(1)(a) or (b) has occurred

1 and sustains the veteran seeking redress, the commission shall
2 order the offending agency, employee, or officer of the state
3 to comply with the provisions of s. 295.07, s. 295.08, s.
4 295.085, or s. 295.09(1)(a) or (b); and, in the event of a
5 violation of s. 295.07, s. 295.08, s. 295.085, or s.
6 295.09(1)(a) or (b), the commission may issue an order to
7 compensate the veteran for the loss of any wages and
8 reasonable attorney's fees for actual hours worked, and costs
9 of all work, including litigation, incurred as a result of
10 such violation, which order shall be conclusive on the agency,
11 employee, or officer concerned. The attorney's fees and costs
12 may not exceed \$10,000. The action of the commission shall be
13 in writing and shall be served on the parties concerned by
14 certified mail with return receipt requested.

15 (2) When reparation is sought through civil action in
16 a court of competent jurisdiction, any agency, employee, or
17 officer of the state or a political subdivision thereof found
18 in violation of any provision of this act shall, in addition
19 to any other edict issued by the court, be required to pay the
20 costs of suit and reasonable attorney's fees incurred in such
21 action and shall be required to pay as damages such amount as
22 the court may award, any law to the contrary notwithstanding.

23 (3) Any employee or officer found liable pursuant to a
24 second or subsequent violation of the provisions of this
25 section shall forfeit his or her position.

26 110.2135 Preference in employment, reemployment,
27 promotion, and retention.--

28 (1) Preference in employment, reemployment, promotion,
29 and retention shall be given to an eligible veteran pursuant
30 to ss. 295.07, 295.08, 295.085, 295.09, and 295.101 as long as
31 the veteran meets the minimum eligibility requirements and has

1 the knowledge, skills, and abilities required for the
2 particular position.

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

25 295.085 Positions for which a numerically based
26 selection process is not used.--In all positions in which the
27 appointment or employment of persons is not subject to a
28 written examination, with the exception of positions that are
29 exempt under s. 295.07(4), first preference in appointment,
30 employment, and retention shall be given by the state and
31 political subdivisions in the state to persons included under

1 s. 295.07(1)(a) and (b), and second preference shall be given
2 to persons included under s. 295.07(1)(c) and (d) who possess
3 the minimum qualifications necessary to discharge the duties
4 of the position involved.

5 295.09 Reinstatement or reemployment; promotion
6 preference.--

7 (1)(a) When an employee of the state or any of its
8 political subdivisions employed in a position subject or not
9 subject to a career service system or other merit-type system,
10 with the exception of those positions which are exempt
11 pursuant to s. 295.07(4), has served in the Armed Forces of
12 the United States and is discharged or separated therefrom
13 with an honorable discharge, the state or its political
14 subdivision shall reemploy or reinstate such person to the
15 same position that he or she held prior to such service in the
16 armed forces, or to an equivalent position, provided such
17 person returns to the position within 1 year of his or her
18 date of separation or, in cases of extended active duty,
19 within 1 year of the date of discharge or separation
20 subsequent to the extension. Such person shall also be awarded
21 preference in promotion and shall be promoted ahead of all
22 others who are as well qualified or less qualified for the
23 position. When an examination for promotion is utilized, such
24 person shall be awarded preference points, as provided in s.
25 295.08, and shall be promoted ahead of all those who appear in
26 an equal or lesser position on the promotional register,
27 provided he or she first successfully passes the examination
28 for the promotional position.

29 (b) The provisions of paragraph (a) shall also apply
30 to a person who was a veteran when employed by the state or
31 its political subdivision and who was recalled to extended

1 active duty in the Armed Forces of the United States and was
2 discharged or separated therefrom with an honorable discharge.

3 (c) The provisions of paragraphs (a) and (b) shall
4 apply only to a veteran's first promotion after reinstatement
5 or reemployment, without exception.

6 (2) For the purposes of this section, "extended active
7 duty" means active duty, other than for training, beyond the
8 date of honorable discharge or separation, due to military
9 requirements.

10 295.101 Employment preference; expiration.--A
11 veteran's employment preference expires after a person
12 eligible pursuant to s. 295.07 has applied and been employed
13 by the state or any agency of a political subdivision in the
14 state.

15 295.11 Investigation; administrative hearing for not
16 employing preferred applicant.--

17 (1) The Department of Veterans' Affairs or its
18 designee shall, upon the written request of any person
19 specified in s. 295.07, investigate any complaint filed with
20 the department by such person when the person has applied to
21 any state agency or any agency of a political subdivision in
22 the state for a position of employment which was awarded to a
23 nonveteran and the person feels aggrieved under this chapter.
24 The Department of Veterans' Affairs shall review each case and
25 may issue an opinion to the Public Employees Relations
26 Commission as to the merit or lack of merit in each case. The
27 investigation must be accomplished within existing amounts
28 appropriated to the department.

29 (2) Upon completion of the investigation, the
30 department shall furnish a copy of the investigative findings
31 to the complainant and to the agency involved.

1 (3) When a satisfactory resolution to the complaint is
2 not forthcoming, any department of the state or political
3 subdivision in the state may testify telephonically or in
4 person at the discretion of the Public Employees Relations
5 Commission. The complainant, however, may be represented at
6 the hearing by counsel of his or her choice at his or her
7 expense.

8 (4) Jurisdiction to effectuate the purposes of ss.
9 295.07-295.09 shall vest with the Public Employees Relations
10 Commission for appropriate administrative determination. If,
11 upon preliminary review of the Public Employees Relations
12 Commission, the commission agrees with the department's
13 determination that a case lacks merit and finds, in its
14 discretion, that there was a complete absence of justiciable
15 issues of either law or fact raised by the veterans'
16 preference complaint, the Public Employees Relations
17 Commission shall dismiss the complaint without the necessity
18 of holding a hearing.

19 295.155 Military retirement based on
20 longevity.--Military retirement on the basis of longevity does
21 not disqualify a person eligible under s. 295.07 from
22 veterans' employment preference.

23 296.04 Administrator; duties and qualifications;
24 responsibilities.--

25 (3) The administrator shall be a resident of the state
26 at the time of entering into employment in the position. The
27 position shall be assigned to the Selected Exempt Service
28 under part V of chapter 110. The director shall afford
29 applicants veterans' preference in appointment in accordance
30 with ss. 295.07 and 295.085. In addition, the administrator
31 must have at least a 4-year degree from an accredited

