

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 873 Employment of Veterans  
**SPONSOR(S):** Veteran & Military Affairs Subcommittee; Ingram  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 970

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Veteran & Military Affairs Subcommittee	13 Y, 0 N, As CS	Dugan	Kiner
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill authorizes, but does not require, a private sector employer to establish a veterans' preference process for honorably discharged veterans and certain spouses of veterans.

Currently, Florida law requires all state government entities, counties, cities, towns, villages, special tax school districts, and special districts to grant employment preference in hiring and retention to certain veterans and spouses of certain military servicemembers and veterans, who are Florida residents.

Unlike government employers, private employers in Florida are not required to comply with veterans' preference requirements. The bill authorizes, but does not require, a private sector employer to establish a veterans' preference process for honorably discharged veterans and certain spouses of veterans. The bill requires that an employer's preference policy be applied uniformly to employment decisions regarding hiring and promotion.

The bill does not appear to have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

More than 1.5 million veterans live in Florida.<sup>1</sup> Approximately 75 percent of Florida's veteran population is comprised of wartime veterans, including more than 231,000 veterans of the Afghanistan and Iraq wars, and roughly 498,000 Vietnam-era veterans.<sup>2</sup>

In 2012, the most recent year for which statistics are available, the unemployment rate among all veterans in Florida was 7.3 percent and 9.0 percent for Post-9/11 veterans.<sup>3</sup> During this same period, the national unemployment rate among all veterans was 7.0 percent and 9.9 percent for Post-9/11 veterans.<sup>4</sup>

The United States Department of Labor estimates that the military discharges approximately 160,000 active duty servicemembers and approximately 110,000 Reserve and National Guard members each year.<sup>5</sup> According to a recent survey of veterans from all eras, nearly two-thirds of respondents said they had a difficult transition from military service to civilian life, attributed largely to employment challenges – such as explaining how their military skills translate to the civilian workforce.<sup>6</sup>

Forty states, the District of Columbia, Guam and Puerto Rico award preference to veterans in initial hiring for public positions, usually by adding points to examination scores that determine the relative ranking of candidates.<sup>7</sup> At least 21 states and Puerto Rico extend those preferences to internal actions such as promotions, transfers and retentions.<sup>8</sup>

Currently, Florida law requires all state government entities, counties, cities, towns, villages, special tax school districts, and special districts to grant employment preference in hiring and retention to certain veterans, and spouses of certain military servicemembers and veterans, who are Florida residents.<sup>9</sup> Although Florida statutes have included some form of veterans' employment preference since 1947,<sup>10</sup> private employers in Florida are not required to comply with veterans' preference requirements.

Since 2011, four states have enacted laws that authorize, but do not require, private employers to establish veterans' preference policies. In 2011, Washington enacted the first private veterans' preference law.<sup>11</sup> It was followed by similar laws in Minnesota<sup>12</sup> in 2012 and Arkansas<sup>13</sup> and North

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<sup>1</sup> FDVA, Annual Report Fiscal Year 2012-13, Facts and Figures.

<sup>2</sup> Id.

<sup>3</sup> U.S. Congress, Joint Economic Committee, Economic Overview and Outlook: Florida, available at: <http://www.jec.senate.gov/public/index.cfm?p=statebystatereport> (last viewed March 10, 2014).

<sup>4</sup> Id.

<sup>5</sup> NCSL, Giving Veterans hiring Preference, by Jennifer Schultz, Vol. 21, No. 46, December 2013, available at: <http://www.ncsl.org/research/military-and-veterans-affairs/giving-veterans-hiring-preference.aspx?TabId=27550> (last viewed March 10, 2014).

<sup>6</sup> The survey was jointly done by Iraq and Afghanistan Veterans of America (IAVA) and Prudential Insurance Company of America. The survey is on file with the House Veteran & Military Affairs Subcommittee.

<sup>7</sup> NCSL, Giving Veterans hiring Preference, by Jennifer Schultz, Vol. 21, No. 46, December 2013, available at: <http://www.ncsl.org/research/military-and-veterans-affairs/giving-veterans-hiring-preference.aspx?TabId=27550> (last viewed March 10, 2014).

<sup>8</sup> Id.

<sup>9</sup> Section 295.07(1), F.S., requires the state and political subdivisions of the state to comply with veterans' preference requirements. Section 1.01, F.S., defines "political subdivision" as "counties, cities, towns, villages, special tax school districts, special road and bridge districts, and all other districts in the state. Rule 55A-7.004, F.A.C., contains a definition applicable specifically to veterans' preference statutes, and includes all the entities listed above, but also includes all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind among those required to give employment preference to veterans and spouses of veterans.

<sup>10</sup> s. 1, ch. 24201, L.O.F. (1947).

<sup>11</sup> Wash. Rev. Code Ann. § 73.16.110.

Dakota<sup>14</sup> in 2013. In addition, similar legislation has been considered during the past year in other states<sup>15</sup>. All of the proposed or enacted laws contain provisions allowing the veterans' preference to be extended to an honorably discharged veteran and the spouse of a service-disabled veteran. Further, all of the proposed or enacted laws clarify that these veterans' preference provisions do not violate local or state equal employment laws.<sup>16</sup>

### **Effect of Proposed Changes**

The bill creates s. 295.188, F.S., to authorize, but not require, a private sector employer to establish a veterans' preference in employment process for an honorably discharged veteran, the spouse of a service-disabled veteran, the unremarried widow or widower of a veteran who died of a service-connected disability, or the unremarried widow or widower of a member of the United States Armed Forces who died in the line of duty under combat related conditions. An employer's preference policy must be applied uniformly to employment decisions regarding hiring and promotion.

Under the bill, a person is considered to be a veteran if he or she meets the definition of 'veteran' in s. 1.01(14), F.S., except that he or she must have received an honorable discharge.

The bill does not appear to have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2014.

### **B. SECTION DIRECTORY:**

Section 1: Creates s. 295.188, F.S., to provide that a private employer may give priority in its hiring practices to certain veterans and spouses of veterans.

Section 2: Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

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<sup>12</sup> Minn. Stat. Ann. § 197.4551.

<sup>13</sup> Ark. Code Ann. § 11-15-103.

<sup>14</sup> ND ST 37-19.1-05.

<sup>15</sup> 2013 North Carolina House Bill No. 74, North Carolina 2013 General Assembly, 2013 Regular Session, 2013; 2013 Massachusetts Senate Bill No. 1878, Massachusetts One Hundred Eighty-Eighth General Court, 2013.

<sup>16</sup> Veterans' preferences accorded pursuant to statute are not subject to challenge under Title VII. See U.S. Equal Employment Opportunity Commission, Policy Guidance on Veterans' Preference Under Title VII, August 10, 1990, available at:

[http://www.eeoc.gov/policy/docs/veterans\\_preference.html#fn6](http://www.eeoc.gov/policy/docs/veterans_preference.html#fn6) (last viewed March 10, 2014).

Private employers may establish a hiring preference for certain veterans and certain spouses of veterans. The hiring of veterans could produce an ancillary benefit to private employers through federal tax credits.<sup>17</sup>

Veterans and spouses of military servicemembers and veterans may experience an increase in hiring due to a private employer's decision to implement a hiring preference. In 2012, the unemployment rate among all veterans in Florida was 7.3 percent and 9.0 percent for Post-9/11 veterans.<sup>18</sup> During this same period, the national unemployment rate among all veterans was 7.0 percent and 9.9 percent for Post-9/11 veterans.<sup>19</sup>

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to affect county or municipal governments.

**2. Other:**

Title VII of the Civil Rights Act of 1964 generally prohibits veterans' preference in employment as unlawfully discriminatory due to the potential disparate impact on women. However, Title VII provides an exception for veterans' preference processes that are authorized by federal, state, or local law.

According to a guidance document authored by the United States Equal Employment Opportunity Commission, veterans' preference processes accorded pursuant to statute are not subject to challenge under Title VII.<sup>20</sup> The exception states:

Nothing contained in this subchapter shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.<sup>21</sup>

**B. RULE-MAKING AUTHORITY:**

Not Applicable.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On Wednesday, March 5, 2014, the Veteran & Military Affairs Subcommittee adopted one strike-all amendment to House Bill 873. The amendment revised House Bill 873 in the following ways:

- expanded the individuals eligible to benefit from a veterans' preference policy offered by a private sector employer to include the unremarried widow or widower of a veteran who died of a service-

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<sup>17</sup> Work Opportunity Tax Credit (WOTC) can reduce an employer's federal income tax liability by as much as \$9,600 per veteran hired, with no limit on the number of individuals an employer can hire to qualify to claim the tax credit. U.S. Department of Labor, <http://www.doleta.gov/wotc> (last viewed March 10, 2014).

<sup>18</sup> U.S. Congress, Joint Economic Committee, Economic Overview and Outlook: Florida, available at: <http://www.jec.senate.gov/public/index.cfm?p=statebystatereport> (last viewed March 10, 2014).

<sup>19</sup> Id.

<sup>20</sup> U.S. Equal Employment Opportunity Commission, Policy Guidance on Veterans' Preference Under Title VII, Notice N-915.06.

<sup>21</sup> 42 U.S.C. § 2000e-11 (1982).

connected disability and the unremarried widow or widower of a member of the United States Armed Forces who died in the line of duty under combat related conditions; and

- required a private sector employer's preference policy to be applied uniformly to employment decisions regarding hiring and promotion.