

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1538

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Evers

SUBJECT: Veterans Employment

DATE: February 24, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ryon</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Favorable</u>
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1538 requires each state agency and authorizes the political subdivisions of the state to develop and implement a written veterans recruitment plan to establish annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce.

The bill requires the Department of Management Services (DMS) to annually collect and publish on its website and include in its annual workforce report statistical data for each state agency on the following:

- The number of persons who claim veterans' preference;
- The number of persons who are hired through the veterans' preference; and
- The number of persons who are hired as a result of the veterans' recruitment plan.

The bill requires each veterans' recruitment plan to apply to the same veterans and veterans' family members that are addressed in the Florida law governing veterans' preference in appointment and retention.

This bill has an indeterminate fiscal impact to the state. See Section V.

The effective date of the bill is October 1, 2016.

II. Present Situation:

Veteran Presence in Florida

The law defines the term “veteran” as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later received an upgraded discharge under honorable conditions.¹ Currently, there are 21.8 million veterans in the United States, of which, over 1.6 million reside in Florida.² This makes Florida the state with the third largest veteran population, behind only California and Texas.³ Approximately 299,000 of Florida’s veterans are service-disabled.⁴

Florida’s overall unemployment rate for calendar year 2014 was 6.3 percent.⁵ The unemployment rate among Florida veterans was five percent compared to 5.3 percent nationally.⁶ The unemployment rate among Florida Post-9/11 era veterans averaged 4.8 percent compared to 7.2 percent nationally.⁷

Veterans’ Preference in Employment

Florida law has included some form of veterans’ employment preference since 1947.⁸ The purpose of the veterans’ preference statute is to reward those who served their country in a time of need and to recognize the qualities and traits developed by military service.⁹ In 2014, the Legislature expanded Florida’s veterans’ preference in the public employment process to increase the field of persons eligible for veterans’ preference to include all veterans, Florida National Guard members, reservists, and Gold Star parents and legal guardians.¹⁰ In addition, beginning in 2014, private sector employers in Florida were authorized to establish a veterans’ preference process for honorably discharged veterans and certain spouses.¹¹

Currently, Florida law does not provide a policy for state agencies concerning the recruitment of employees who are veterans. However, the law specifically requires all state government entities, counties, cities, towns, villages, special tax school districts, and special districts (government employers) to grant employment preference in hiring and retention to certain veterans, and

¹ Section 1.01(14), F.S.

² U.S. Census Bureau, *A Snapshot of Our Nation’s Veterans*, available at: <http://www.census.gov/library/infographics/veterans.html>

³ Florida Department of Veterans’ Affairs, *Fast Facts*, available at: http://floridavets.org/?page_id=50

⁴ U.S. Department of Veterans Affairs, Veterans Benefits Administration, Annual Benefits Report, Fiscal Year 2014, page 22 of 80, available at: <http://www.benefits.va.gov/REPORTS/abr/ABR-IntroAppendix-FY13-09262014.pdf>

⁵ See Florida Department of Economic Opportunity, *Local Area Unemployment Statistics*, available at: <http://www.floridajobs.org/labor-market-information/data-center/statistical-programs/local-area-unemployment-statistics>

⁶ United States Congress Joint Economic Committee, *Economic Snapshot: Florida* (Oct. 2015), available at: http://www.jec.senate.gov/public/_cache/files/2cb3bde9-27db-4584-86fc-f2ce46e4bb2e/florida.pdf

⁷ Id.

⁸ Section 1, ch. 24201, L.O.F. (1947).

⁹ *Yates v. Rezeau*, 62 So.2d 726, 727 (Fla. 1952); Ch. 98-33, at 244, L.O.F.

¹⁰ ch. 2014-1, L.O.F.

¹¹ Section 295.188, F.S.

family members of certain military servicemembers and veterans.¹² All advertisements and written job announcements must include notice that veterans and eligible family members receive preference in employment and are encouraged to apply for the position.¹³

Florida's veterans' preference in employment statutes does not require a government employer to hire a veteran over a more qualified non-veteran.¹⁴ In addition, a potential government employer is not required to pass a person who is eligible for veterans' preference through the screening process if he or she does not meet the minimum qualifications for the position.¹⁵

Persons Eligible for Veterans' Preference and Exceptions

Pursuant to s. 295.07, F.S., the following persons are eligible to claim veterans' employment preference:¹⁶

- A disabled veteran who has served on active duty in any branch of the Armed Forces and who presently has an existing service-connected disability which is compensable under public laws administered by the United States Department of Veterans Affairs (DVA) or is receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the DVA and the United States Department of Defense.
- The spouse of a veteran:
 - Who has a total and permanent service-connected disability and who, because of this disability, cannot qualify for employment; or
 - Who is missing in action, captured in line of duty by a hostile force, or detained or interned in line of duty by a foreign government or power.
- A veteran of any war, who has served at least one day during that war time period as defined in subsection s. 1.01(14), F.S., or who has been awarded a campaign or expeditionary medal. (Active duty for training is not allowed for eligibility under this provision.)
- The unremarried widow or widower of a veteran who died of a service-connected disability.
- The mother, father, legal guardian, or unremarried widow or widower of a service member who died as a result of military service under combat-related conditions.
- A veteran as defined in s. 1.01(14), F.S.
- A current member of any reserve component of the U.S. Armed Forces or the Florida National Guard.

Florida law exempts the following government positions from the veterans' preference requirements:¹⁷

- Positions that are exempt from the state Career Service System, including certain legislative branch personnel, judicial branch personnel, and personnel of the Office of the Governor; however, all positions under the University Support Personnel System of the State University

¹² 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."

¹³ Section 295.065, F.S.

¹⁴ Harris v. State, Public Employees Relations Com'n., 568 So.2d 475 (Fla. 1st DCA 1990).

¹⁵ *Id.*

¹⁶ Section 295.07(1)(a)-(g), F.S.

¹⁷ Section 295.07(4)(a)-(b), F.S.

System as well as all Career Service System positions under the Florida College System and the School for the Deaf and the Blind are included;

- Positions in political subdivisions of the state which are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices and the personal secretary of each officer;
- Members of boards and commissions;
- Persons employed on a temporary basis without benefits;
- Heads of departments;
- Positions that require licensure as a physician, licensure as an osteopathic physician, or licensure as a chiropractic physician; and
- Positions that require membership in the Florida Bar.

Veterans’ Preference Applied when Examination Determines Qualification for Employment

If an examination is used to determine qualification for employment, points are added to the final examination score as follows:¹⁸

Veterans’ Preference Beneficiary	Preference Points
Disabled Veteran	15
Spouse of Person With Total Disability, Missing in Action, Captured in Line of Duty, Etc.	15
Wartime Veteran	10
Un-remarried widow/widower of Person Who Died of a Service-Connected Disability	10
Gold Star Family	10
Veteran	5
National Guard/Reserve	5

In order for points to be awarded, the applicant must first obtain a qualifying score on the examination.¹⁹

Florida law requires each government employer to enter the names of persons eligible for preference on an appropriate register or list in accordance with their respective ratings.²⁰ For most positions, the names of all persons qualified to receive a fifteen-point preference whose service-connected disabilities have been rated to be 30 percent or more must be placed at the top of the appropriate register or employment list, in accordance with their respective ratings.²¹ A Florida court determined that this provision gives an absolute preference for veterans to be placed at the top of the employment list only if the candidate has a 30 percent or more disability rating.²²

¹⁸ Section 295.08, F.S.

¹⁹ Rule 55A-7.010(1), F.A.C.

²⁰ Section 295.08, F.S.

²¹ Id.

²² Harris v. State, Public Employees Relations Com'n., 568 So.2d 475 (Fla. 1st DCA 1990).

However, the court further declared that there are no statutory provisions suggesting that veterans receiving a five or ten point exam score augmentation must be hired over more qualified non-veterans.²³

Veterans' Preference Applied when Examination Does Not Determine Qualification for Employment

If an examination is not used to determine qualifications for a position, preference is given as follows:²⁴

- First preference is given to disabled veterans and the spouses of veterans who have a total and permanent service-connected disability or who are missing in action, captured in line of duty by a hostile force, or detained or interned in line of duty by a foreign government or power; and
- Second preference is given to a veteran of any war; the unremarried widow or widower of a veteran who died of a service connected disability; the mother, father, legal guardian, or unremarried widow or widower of a service member who died as a result of military service under combat-related conditions; a veteran as defined in section s. 1.01(14), F.S., and a current member of any reserve component of the U.S. Armed Forces or the Florida National Guard.

State Government Veterans' Preference Provision

With respect to non-exempt positions in the state's career service system, Florida law requires the state to grant a preference in hiring and retention to an eligible person if the eligible person meets the minimum eligibility requirements for the position and has the knowledge, skills, and abilities required for the position.²⁵ A disabled veteran employed as the result of being placed at the top of the appropriate employment list must be appointed for a probationary period of one year.²⁶ At the end of one year, if the disabled veteran's performance is satisfactory, the veteran will acquire permanent employment status and will be subject to the employment rules of the DMS and the veteran's employing agency.²⁷

State Equal Employment Policy

Section 110.112, F.S., declares that the policy of the state is to afford equal employment opportunities through programs of affirmative and positive action allowing for the full utilization of women and minorities. Each executive agency is required to develop and implement an affirmative action plan;²⁸ establish annual goals in its affirmative action plan for ensuring full

²³ Id.

²⁴ Section 295.085, F.S.

²⁵ Section 110.2135(1), F.S.

²⁶ Section 110.2135(2), F.S.

²⁷ Id.

²⁸ Section 110.112(2)(a), F.S.

utilization of groups underrepresented in the agency's workforce as compared to the relevant labor market;²⁹ and appoint an affirmative action-equal employment opportunity officer.³⁰

Section 110.201(5), F.S., requires the DMS to develop an annual workforce report that contains data representative of the state's human resources.³¹ The DMS is also required to include in its annual workforce report information relating to each executive agency's affirmative action plan.³²

III. Effect of Proposed Changes:

This bill amends s. 295.07, F.S., to require each state agency and authorize political subdivisions of the state to develop and implement a written veterans' recruitment plan to establish annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce. These veterans' recruitment plans apply to veterans and their family members who are eligible for veterans' employment preference identified in s. 295.07(1), F.S.

The bill requires the DMS to annually collect and publish on its website and include in its annual workforce report statistical data for each state agency on the following:

- The number of persons who claim veterans' preference;
- The number of persons who are hired through the veterans' preference; and
- The number of persons who are hired as a result of the veterans' recruitment plan.

The bill also updates cross references in ss. 295.085 and 295.09, F.S.

The bill takes effect on October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁹ Section 110.112(2)(b), F.S.

³⁰ Section 110.112(2)(c), F.S., provides that the duties of the affirmative action-equal employment opportunity officer include "determining annual goals, monitoring agency compliance, and providing consultation to managers regarding progress, deficiencies, and appropriate corrective action."

³¹ DMS State Personnel Annual Workforce Report Fiscal Year 2013-2014, Equal Employment Opportunity/Affirmative Action Report page 62, available at: <http://www.dms.myflorida.com/content/download/113500/629140/file/FY%2013-14%20Annual%20Workforce%20Report.pdf>.

³² Section 110.112(2)(d), (e), and (6), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

CS/SB 1538 may provide a positive fiscal impact to veterans in the state. Recruiting veterans to the state's government workforce will likely increase the number of veterans that obtain gainful employment.

C. Government Sector Impact:

The bill has an indeterminate negative fiscal impact to the state and local governments. The cost for state agencies to develop and implement a veterans' recruitment plan is unknown but most likely insignificant and may be handled within existing resources.

The fiscal impact to the DMS is indeterminate. The cost for the DMS to collect the required statistical data for all state agencies, annually update the data on its website, and include the data in its annual workforce report is unknown, but may be insignificant. In addition, the DMS states the bill may require People First programming modifications in order to capture the specified data.³³ These additional costs could be handled within existing resources or requested in the agency's legislative budget request.

Allowing each political subdivision of the state to develop and implement a written veterans' recruitment plan may create an indeterminate negative fiscal impact to these political subdivisions. However, this is an authorization for the political subdivisions to do so, not a requirement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 295.07, 295.085, and 295.09.

³³ Email from Ricky Moulton, Department of Management Services, Re: CS/HB 1219, which is similar to CS/SB 1538 (Feb. 4, 2016) (on file with the Appropriations Subcommittee on General Government staff).

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Military and Veterans Affairs, Space, and Domestic Security on January 26, 2016:

The CS:

- Relocates the bill’s veterans recruitment plan provisions to the existing veterans preference statute (s. 295.07);
- Allows political subdivisions to develop veteran’s recruitment plans.
- Removes the requirement that each executive agency appoint a veterans employment officer;
- Removes training requirements for the DMS and executive agencies relating to recruitment and employment of veterans;
- Provides that an agency’s veterans recruitment plan will apply to veterans and their family members who are eligible for state veterans’ preference; and
- Requires the DMS to collect statistical data on the effectiveness and utilization of veterans’ preference and veteran recruitment practices.

- B. **Amendments:**

None.