

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: SB 1538

INTRODUCER: Senator Evers

SUBJECT: Veterans' Employment

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ryon	Ryon	MS	Pre-meeting
2.			AGG	
3.			AP	

I. Summary:

SB 1538 creates a state equal employment opportunity requirement for executive agencies when hiring veterans. In part, the bill requires each executive agency to:

- Develop and implement a veterans' recruitment plan in accordance with rules adopted by the Department of Management Services (DMS) and approved by the Administration Commission;
- Appoint a veterans' employment officer;
- Establish annual goals for ensuring full use of veterans in the agency's workforce; and
- Design its veterans' recruitment plan to meet its established goals.

The bill requires the DMS to:

- Include in its annual workforce report information regarding the implementation, continuance, updating, and results, of each executive agency's veterans' recruitment plan for the previous fiscal year;
- Provide training in the principles of veterans' recruitment and hiring, the development and implementation of a veterans' recruitment plan, and the establishment of veterans' employment goals to all supervisory personnel of the executive agencies; and
- Review and monitor executive agency actions in carrying out its rules adopted pursuant to this section.

II. Present Situation:

Veteran Presence in Florida

The Florida Statutes 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 5 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

The Florida Statutes have 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 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 Mothers, Fathers, and legal guardians.¹⁰ In addition, beginning in 2014, private employers in Florida were authorized to provide veterans' preference requirements.¹¹

Currently, Florida law does not provide a policy for executive agencies concerning the recruitment of veteran employees. 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 family members of certain military servicemembers and veterans.¹² All advertisements and written job announcements must include notice that veterans and eligible

¹ s. 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 s. 1, ch. 24201, Laws of Fla. (1947).

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

¹⁰ ch. 2014-1, Laws of Fla.

¹¹ s. 295.188, F.S.

¹² s. 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 FCS and the School for the Deaf and the Blind among those required to give employment preference to veterans and spouses of veterans.

family members receive preference in employment and are encouraged to apply for the position.¹³

Persons Eligible for Veterans' Preference and Exceptions

Pursuant to s.295.07, F.S., the following persons are eligible to claim veterans' employment preference:¹⁴

- A disabled veteran;
- 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 shall not be 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 section s. 1.01(14), F.S., 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:¹⁵

- 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 SUS as well as all Career Service System positions under the FCS 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.

¹³ s. 295.065, F.S.

¹⁴ s. 295.07(1)(a)-(g), F.S.

¹⁵ s. 295.07(4)(a)-(b), F.S.

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:¹⁶

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.¹⁷

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:¹⁸

- 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., F.S.; and a current member of any reserve component of the U.S. Armed Forces or the Florida National Guard.

Federal Vietnam Era Veterans' Readjustment Assistance Act of 1974

The affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974¹⁹ prohibit job discrimination and require federal contractors and subcontractors to take affirmative action to employ and advance in employment certain “covered veterans.” These veterans include qualified:

- Disabled veterans;
- Veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized;

¹⁶ s. 295.08, F.S.; Rule 55A-7.010, F.A.C., provides further procedures for calculating points if the highest possible exam score is other than 100.

¹⁷ Rule 55A-7.010(1), F.A.C.

¹⁸ s. 295.085, F.S.

¹⁹ 38 USC Sec. 4212.

- Veterans who, while serving on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded pursuant to Executive Order No. 12985 (61 Fed. Reg. 1209),²⁰ and
- Recently separated veterans.

This law is enforced by the Veterans' Employment and Training Service and applies only to the specific state or local government entities that participate in work on or under a federal contract or subcontract.

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 in accordance with DMS rules and approved by the Administration Commission;²¹ ²² establish annual goals in its affirmative action plan for ensuring full utilization of groups underrepresented in the agency's workforce as compared to the relevant labor market;²³ and appoint an affirmative action-equal employment opportunity officer.²⁴

Each agency's affirmative action plan must be preapproved by the Administration Commission, which is a part of the Executive Office of the Governor composed of the Governor and Cabinet. The Governor serves as chair of the Commission.

In support of this policy, DMS is required to report information in its annual workforce report²⁵ relating to each executive agency's affirmative action plan; and review and monitor executive agency actions in carrying out the rules adopted by DMS pursuant to this provision.²⁶

DMS is authorized to contract for training services to all supervisory personnel of the executive agencies related to equal employment opportunity and affirmative action.²⁷ Each participating agency is required to reimburse DMS for the costs incurred through training contracts. After DMS approves the contents of an agency training program, it is authorized to delegate this training to the executive agencies.²⁸

Presently, s. 110.112, F.S., does not specifically address executive agency plans regarding equal employment opportunity and affirmative action for veterans.

²⁰ Executive Order 12985 of January 11, 1996 establishes the Armed Forces Service Medal.

²¹ s. 110.112(2)(a), F.S.

²² s. 14.202, F.S., creates the Administration Commission.

²³ s. 110.112(2)(b), F.S.

²⁴ s. 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."

²⁵ DMS 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>.

²⁶ s. 110.112(2)(d), (e), and (6), F.S.

²⁷ s. 110.112(e), F.S.

²⁸ Id.

III. Effect of Proposed Changes:

The bill creates s. 110.1121, F.S., to establish a state equal employment opportunity provision for executive agencies to adhere to when hiring veterans, which mirrors the framework of Florida's current affirmative action law for women and minorities.

Specifically, the bill provides that it is the policy of the state to assist in providing the assurance of equal employment opportunity through programs of affirmative and positive action that will allow full use of veterans of the United States Armed Forces.

The bill requires the heads of each executive agency to:

- Develop and implement a veterans' recruitment plan in accordance with rules adopted by the department and approved by a majority vote of the Administration Commission before their adoption; and
- Appoint a veterans' employment officer, who may be a full-time or part-time employee. The responsibilities of the veterans' employment officer include determining annual goals, monitoring agency compliance, and consulting with managers regarding progress, deficiencies, and appropriate corrective action.

The bill also requires each executive agency to:

- Establish annual goals for ensuring full use of veterans in the agency's workforce as compared to the relevant labor market, as defined by the agency; and
- Design its veterans' recruitment plan to meet its established goals.

The bill requires DMS to:

- Include in its annual workforce report information regarding the implementation, continuance, updating, and results of each executive agency's veterans' recruitment plan for the previous fiscal year;
- Provide training in the principles of veterans' recruitment and hiring, the development and implementation of a veterans' recruitment plan, and the establishment of veterans' employment goals to all supervisory personnel of the executive agencies; and
- Review and monitor executive agency actions in carrying out its rules adopted pursuant to this section.

The bill authorizes DMS to contract for training services; however, each participating agency must reimburse DMS for costs incurred through the contracts. Subsequent to DMS approval of the content of the training program, it may delegate this training to the executive agencies.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill could provide a positive fiscal impact to veterans in the state. Recruiting veterans to the state's executive agency workforce will likely increase the number of veterans that obtain gainful employment.

C. Government Sector Impact:

According to DMS, the fiscal impact to the department is indeterminate.²⁹ Requiring DMS to revise its annual workforce report; provide training to all supervisory personnel of the executive agencies; and review and monitor the executive agencies may create a negative fiscal impact to the state funds within DMS.

The requirements on the executive agencies to implement the affirmative action program may create a negative fiscal impact to the state funds within each executive agency. The fiscal impact to the agencies is unknown at this time. Each executive agency of the state must reimburse DMS for the training costs incurred to implement the affirmative action program. According to DMS, the costs of such training is unknown at this time.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not provide a definition of the term "veteran." According to DMS, the executive agencies will require further guidance on the term "veteran" in order to appropriately establish an affirmative action program.³¹

²⁹ DMS Agency Bill Analysis for SB 1538 (2016). On file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee.

³⁰ Id.

³¹ Id.

VIII. Statutes Affected:

This bill creates section 110.1121 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
