

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 541 Veterans' Preference in Employment

SPONSOR(S): Buchanan, DiCeglie and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 922

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	18 Y, 0 N	Renner	Miller
2) Professions & Public Health Subcommittee	17 Y, 0 N	Rahming	McElroy
3) State Affairs Committee	20 Y, 0 N	Renner	Williamson

SUMMARY ANALYSIS

Current law requires the state and its political subdivisions to give employment preference in hiring and retention to all veterans, Florida National Guard members, reserve components of the United States Armed Forces, Gold Star Mothers and Fathers, widows or widowers, legal guardians, and certain spouses who meet specified criteria. Certain government positions are exempt from the veterans' preference requirements including, but not limited to, heads of departments, personal secretaries of elected or appointed officers, and certain physicians.

Each state agency must, and each political subdivision may, develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce.

Point preferences are given to veterans and family members grouped into certain categories when a numerically based selection process is used for hiring.

The bill authorizes state agencies and political subdivisions to waive a postsecondary education requirement for a position of employment for a current member of any reserve component of the United States Armed Forces or the Florida National Guard or a veteran who has been honorably discharged if the person is otherwise qualified for the position.

The bill removes certain positions that are exempt from veterans' preference requirements as they appear to be redundant under current law.

The bill requires, rather than authorizes, political subdivisions to develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce.

The bill increases the point preferences given to veterans and their family members when a numerically based selection process is used for hiring by five points for each category.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Personnel System

The State Personnel System is the largest of the state government employers within Florida.¹ State Personnel System employees fall into four service categories:²

- Career Service;
- Senior Management Service (SMS);
- Selected Exempt Service (SES); and
- Other Personal Services (OPS).

SES and SMS employees hold established positions, receive employee benefits, and are exempt from career service provisions. SES and SMS employees serve at the pleasure of the agency head and may be terminated at any time, with or without cause. Positions categorized as OPS are considered temporary positions and these employees are not eligible for benefits.

Career Service System

The Career Service System includes the majority of state employees.³ These employees hold established positions, accrue benefits, and have certain employment rights afforded to them, such as the right to collectively bargain.⁴

Under s. 110.205(2), F.S., certain positions are exempt from the Career Service System, including but not limited to:⁵

- The personal secretary of either elected or appointed officers;
- Heads of departments; and
- Positions that require licensure as a physician, an osteopathic physician, and a chiropractic physician.

Veterans' Employment Preference

Current law defines a "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.⁶ Florida has the nation's third-largest veteran population with roughly 1.5 million veterans.⁷

¹ Department of Management Services (DMS), *For State Personnel System Employees*, https://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_personnel_system_employees#:~:text=Employees%20of%20the%20State%20Personnel,positions%20and%20receive%20certain%20benefits. (last visited Mar. 10, 2021).

² S. 110.2035, F.S.

³ See, DMS, State of Florida New Employee Orientation, <https://www.dms.myflorida.com/content/download/14847/82111> (last visited Mar. 11, 2021).

⁴ Collective bargaining is the negotiation between an employer and a bargaining agent chosen by a group of employees to determine the terms and conditions of employment. Collective bargaining for state employees in Florida is provided by the Florida Constitution and is governed by the provisions of ch. 447, F.S.

⁵ S. 110.205(2), F.S.

⁶ S. 1.01(14), F.S.

⁷ Enterprise Florida, *Florida Defense Factbook*, p. 1 (2020), <https://www.enterpriseflorida.com/wp-content/uploads/Florida-Defense-Factbook-2020.pdf> (last visited Jan. 29, 2021).

Florida has included some form of veterans' employment preference in law since 1947.⁸ The purpose of having a veterans' preference 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

The state and its political subdivisions¹⁰ must give employment preference in hiring and retention to the following:¹¹

- A disabled veteran who has served on active duty in any branch of the United States Armed Forces,¹² who has a compensable service-connected disability, and who is receiving compensation, disability retirement benefits, or a military pension.
- The spouse of a veteran who:
 - Has a total and permanent service-connected disability and who, because of this disability, does not qualify for employment; or
 - Is missing in action, captured in line of duty by a hostile force, or forcibly 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 wartime period or who has been awarded a campaign or expeditionary medal. Active duty for training may 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 member of the Armed Forces who died in the line of duty under combat-related conditions, as verified by the DoD.
- A veteran as defined in s. 1.01(14), F.S.
- A current member of any reserve component¹³ of the United States Armed Forces or the Florida National Guard.

The following government positions are exempt from the veterans' preference requirements:¹⁴

- Positions that are currently exempt from the state Career Service System under s. 110.205(2), F.S.; however, all positions under the University Support Personnel System of the State University System and all Career Service System positions under the Florida College System and the School for the Deaf and the Blind, or the equivalent positions at state universities, Florida College System institutions, or the School for the Deaf and the Blind are included.
- Positions in political subdivisions that are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices and the personal secretary of such officer; members of boards and commissions; persons employed on a temporary basis without benefits; heads of departments; positions that require licensure as a physician, osteopathic physician, or chiropractic physician; and positions that require employees to be a member of the Florida Bar.

Each state agency must, and each political subdivision may, develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in the entity's workforce.¹⁵ Additionally, the Department of Management Services (DMS) is required to collect statistical data for each state agency on the number of persons who claim veterans' preference, the number of persons who were hired through veterans' preference, and the number of persons who were hired as a result of the veterans' recruitment plan. DMS must update the statistical data annually on its website and include the statistics in its annual workforce report.¹⁶

Hiring Point Preferences

⁸ Ch. 24201, s. 1, Laws of Fla.

⁹ *Yates v. Rezeau*, 60 So. 2d 726, 727 (Fla. 1952); See ch. 98-33, Laws of Fla.

¹⁰ S. 1.01(8), F.S., defines the term "political subdivision" as counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in the state.

¹¹ S. 295.07(1)(a)-(g), F.S.

¹² 10 USC §101(a) defines the term "Armed Forces" as the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

¹³ 10 USC §10102 provides that the purpose of reserve components is to provide trained units and qualified persons available for active duty in the United States Armed Forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the United States Armed Forces whenever more units and persons are needed than are in the regular components.

¹⁴ S. 295.07(4)(a)-(b), F.S.

¹⁵ S. 295.07(5)(a), F.S.

¹⁶ S. 295.07(5)(b), F.S.

If an examination is used to determine qualification for employment, points are added to the final examination score as follows:¹⁷

Category	Points
Disabled veteran	15
Spouse of person with total disability, missing in action, captured in line of duty, etc.	15
Wartime veteran	10
Unremarried widow/widower of person who died of a service-connected disability	10
Gold Star family	10
Veteran	5
National Guard/Reserve	5

Each government employer is required to enter the names of persons eligible for preference on an appropriate register or list in accordance with their respective ratings.¹⁸ For most positions, the names of all persons qualified to receive a 15-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.¹⁹

If an examination is not used to determine qualification for a position, preference is given as follows:²⁰

- First preference is given to a disabled veteran who has served on active duty in any branch of the Armed Forces, who has a compensable, service-connected disability, and who is receiving compensation, disability retirement benefits, or a military pension; and the spouse of a veteran who has a total and permanent service-connected disability and who, because of this disability, does not qualify for employment, or who is missing in action; captured in the 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 servicemember who died as a result of military service under combat-related conditions; a veteran; a current member of any reserve component of the United States Armed Forces or the Florida National Guard.

The Florida Department of Veterans' Affairs (FDVA) is responsible for promulgating rules or procedures to ensure that eligible persons are given special consideration in the selection and retention processes of government employers.²¹ These procedures must ensure that, for positions not requiring an examination, eligible persons receive special consideration at each step of the employment selection process and receive special consideration in the retention of employees where layoffs are necessitated.²²

¹⁷ S. 295.08, F.S.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ S. 295.085, F.S.

²¹ S. 296.07(2), F.S.

²² *Id.*

Effect of the Bill

The bill authorizes state agencies and political subdivisions to waive a postsecondary education requirement for a position of employment for a current member of any reserve component of the United States Armed Forces or the Florida National Guard or a veteran who has been honorably discharged if the person is otherwise qualified for the position.

The bill removes the following Career Service positions that are exempt from veterans' preference requirements in s. 295.07(4)(b), F.S., as they are also exempt under the Career Service provisions of s. 295.07(4)(a), F.S., and are redundant:

- The personal secretary of either elected or appointed officers;
- Heads of departments; and
- Positions that require licensure as a physician, an osteopathic physician, and a chiropractic physician.

The bill requires, rather than authorizes, political subdivisions to develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in each political subdivision's workforce.

The bill increases the point preferences given to veterans and their family members when a numerically based selection process is used for hiring by five points for each category described in the chart above. As a result of the point increase, the names of the persons who are qualified to receive a 20-point preference whose service-connected disabilities are rated to be 30 percent or more, must be placed at the top of the employment list.

Lastly, the bill makes conforming changes.

B. SECTION DIRECTORY:

- Section 1 Amends s. 295.065, F.S., revising legislative intent to conform provisions.
- Section 2 Amends s. 295.07, F.S., relating to preference in appointment and retention.
- Section 3 Amends s. 295.08, F.S., relating to positions for which a numerically based selection process is used.
- Section 4 Amends s. 295.085, F.S., conforming provisions and cross-references.
- Section 5 Amends s. 295.09, F.S., conforming provisions and cross-references.
- Section 6 Amends s. 1002.36, F.S., conforming provisions and cross-references.
- Section 7 Provides an effective date of July 1, 2021.

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:

The bill will likely have a positive impact on veterans in the state. Recruiting veterans to the state and local government workforce may increase employment for veterans.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.