

HOUSE BILL REPORT

HB 1432

As Passed Legislature

Title: An act relating to veterans' relief by permitting private employers to exercise a voluntary veterans' preference in employment.

Brief Description: Permitting private employers to exercise a voluntary veterans' preference in employment.

Sponsors: Representatives Rodne, Kelley, Shea, Green, Van De Wege, Ahern and Orwall.

Brief History:

Committee Activity:

Labor & Workforce Development: 2/2/11 [DP].

Floor Activity:

Passed House: 2/25/11, 94-4.

Passed Senate: 4/6/11, 49-0.

Passed Legislature.

Brief Summary of Bill

- Allows private employers to establish preferences in employment for veterans, widows or widowers of veterans, and spouses of certain veterans.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass. Signed by 11 members: Representatives Sells, Chair; Reykdal, Vice Chair; Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Green, Kenney, Miloscia, Ormsby, Taylor and Warnick.

Staff: Alison Hellberg (786-7152).

Background:

Both federal and state law provide preferences for honorably discharged veterans in employment in federal, state, and local government. For some public employment positions, applicants must take a competitive examination. In those cases, preference is given to veterans by adding a percentage to the passing mark, grade, or rating of an examination.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the Washington Law Against Discrimination (WLAD), it is an unfair practice to discriminate in employment based on age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, sexual orientation, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a person with a disability.

Title VII of the Civil Rights Act of 1964 (Title VII) makes it illegal for an employer to discriminate against any individual because of the individual's race, color, religion, sex, or national origin. The federal law also states that nothing in the law "shall be construed to repeal or modify any federal, state, territorial, or local law creating special rights or preferences for veterans."

Summary of Bill:

The Legislature's intention to establish a permissive preference in private employment for certain veterans is stated. In private, nonpublic employment veterans and their widows or widowers may be preferred for employment. Spouses of honorably discharged veterans who have a service connected permanent and total disability may also be preferred for employment. These preferences are not considered violations of any state or local equal employment opportunity law, including the WLAD.

A "veteran" includes a person who has received a honorable discharge, is actively serving honorably, or received a discharge for physical reasons with a honorable record and who has:

- served between World War I and World War II or during any period of war; or
- received the Armed Forces Expeditionary Medal, or Marine Corps and Navy Expeditionary Medal, for opposed action on foreign soil.

The term "veteran" also includes a person who has received a honorable discharge or received a discharge for medical reasons with a honorable record, and who has served as:

- a member in any branch of the United States Armed Forces, including the National Guard and Armed Forces Reserves, and has fulfilled his or her initial military service obligation;
- a member of the Women's Air Forces Service Pilots;
- a member of the Armed Forces Reserves, National Guard, or Coast Guard, and has been called into federal service by a presidential select reserve call up for at least 180 cumulative days;
- a civil service crewmember with service aboard a U.S. Army Transport Service or U.S. Naval Transportation Service vessel in oceangoing service from December 7, 1941, through December 31, 1946;
- a member of the Philippine Armed Forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or
- a U.S. documented Merchant Mariner with service aboard an oceangoing vessel operated by the Department of Defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters, and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Members of the National Guard and other veterans have been doing the heavy lifting in Afghanistan and Iraq. This bill is a reasonable way to honor those who served their country. The military is a major employer in Washington, and many people stationed here stay once they are discharged. The veteran population is growing rapidly, and the economic situation is very tough for them.

Federal law allows states to do this. This bill provides a shield against litigation for employers who want to provide a preference to veterans. There is an express safe harbor in Title VII to allow for these kind of state laws. This bill was drafted to mirror public employment preferences. There has been no disparate impact against women with this preference in state law.

Many companies would like to prefer veterans, but are concerned about litigation. This bill will remove the fear factor, and allow more companies to reach out to veterans. This would help take down one barrier to hiring veterans and allow companies to work to transition military members into the larger workforce.

(Opposed) None.

Persons Testifying: Representative Rodne, prime sponsor; David Black, Washington State Council-Society for Human Resource Management; Marjorie James and Tom Hinman, Hire America's Heroes; and Ted Wicorek, Veterans' Legislative Coalition.

Persons Signed In To Testify But Not Testifying: None.