

IN THE SENATE

SENATE BILL NO. 1204

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1  
2 RELATING TO RIGHTS AND PRIVILEGES OF VETERANS AND THE STATE EMPLOYEE PERSON-  
3 NEL SYSTEM; AMENDING SECTION 65-504, IDAHO CODE, TO REMOVE A TERM RELAT-  
4 ING TO THE DETERMINATION OF VETERANS' PREFERENCE AND TO MAKE TECHNICAL  
5 CORRECTIONS; AND AMENDING SECTION 67-5309, IDAHO CODE, TO REMOVE A TERM  
6 RELATING TO THE DETERMINATION OF VETERANS' PREFERENCE.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 65-504, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 65-504. BASIC PREFERENCE AND ADDITION OF POINTS TO COMPETITIVE EXAMI-  
11 NATION RATINGS. (1) An applicant who is preference eligible is entitled to a  
12 preference in initial appointment with a public employer over other appli-  
13 cants for the same position who are not more qualified.

14 (2) Application of preference in civil service positions:

15 (a) Five (5) ~~percentage~~ points shall be added to the earned rating of  
16 any veteran and the widow or widower of any veteran as long as he or she  
17 remains unmarried. The names of all five (5) point preference eligi-  
18 ble applicants shall be placed on the register in accordance with their  
19 augmented rating. The additional points added by reason of ~~veteran's~~  
20 veterans' preference shall be used only for the purpose of initial ap-  
21 pointment and not for the purpose of any promotion, transfer or reas-  
22 signment.

23 (b) Ten (10) ~~percentage~~ points shall be added to the earned rating of  
24 veterans discharged under honorable conditions who qualify as disabled  
25 veterans because they have served on active duty in the armed forces at  
26 any time and have a current service-connected disability of ten percent  
27 (10%) or more. Alternatively, ten (10) ~~percentage~~ points shall be added  
28 to the earned rating of the widow or widower of any disabled veteran as  
29 long as he or she remains unmarried or the spouse of any eligible dis-  
30 abled veteran who cannot qualify for any public employment because of a  
31 service-connected disability. The names of all ten (10) point prefer-  
32 ence eligible applicants shall be placed on the register in accordance  
33 with their augmented rating. The additional points added by reason of  
34 ~~veteran's~~ veterans' preference shall be used only for the purpose of  
35 initial appointment and not for the purpose of any promotion, transfer  
36 or reassignment.

37 (c) Veterans discharged under honorable conditions who served on ac-  
38 tive duty in the armed forces at any time and have a current service-con-  
39 nected disability of thirty percent (30%) or more shall be offered an  
40 interview if they are one (1) of the qualified applicants on the regis-  
41 ter for the position. If applicants are not ranked, an interview must be  
42 offered to such veterans who fully meet all qualifications for the posi-

1 tion. Notwithstanding this subsection, employers shall not be required  
2 to interview more than a total of ten (10) applicants regardless of the  
3 number of such qualified veteran applicants.

4 SECTION 2. That Section 67-5309, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL  
7 COMMISSION. The administrator of the division of human resources shall have  
8 the power and authority to adopt, amend, or rescind such rules as may be nec-  
9 essary for proper administration of this chapter. Such rules shall include:

10 (a) A rule requiring the administrator, after consulting with each de-  
11 partment to develop, adopt, and make effective, a job classification sys-  
12 tem for positions covered by this chapter, based upon an analysis of the du-  
13 ties and responsibilities of the positions. The job classification shall  
14 include an appropriate title for each class, and a description of duties and  
15 responsibilities of positions in the classes and the requirements of minimum  
16 training, experience and other qualifications, suitable for the performance  
17 of duties of the position.

18 (b) A rule describing the relevant labor markets and benchmark job  
19 classifications used in the administrator's salary surveys.

20 (c) A rule requiring that all classes of positions which are common to  
21 the departments concerned shall have the same titles, minimum requirements  
22 and compensation ranges.

23 (d) A rule providing for review by the administrator of the personnel  
24 system including classifications and compensation policies and procedures.

25 (e) A rule that, notwithstanding the procedure for examination and  
26 ranking of eligibles on a register provided in subsection (f) of this sec-  
27 tion, an agency may appoint an individual directly into an entrance or  
28 promotional probation if the division of vocational rehabilitation, Idaho  
29 commission for the blind and visually impaired or the industrial commission  
30 certifies, with the concurrence of division of human resources staff, that  
31 the individual (1) has a disability or handicap as defined under state or  
32 federal law; (2) is qualified to perform the essential functions of a par-  
33 ticular classified position with or without reasonable accommodation; and  
34 (3) lacks competitiveness in the examination process due to the disability  
35 or handicap. The probationary period as provided in subsection (j) of this  
36 section shall be the sole examination for such individuals.

37 (f) A rule requiring fair and impartial selection of appointees to all  
38 positions other than those defined as nonclassified in this chapter, on the  
39 basis of open competitive merit examinations or evaluations. An application  
40 for an examination will be accepted after the closing date of the examina-  
41 tion from a person who was serving in the armed forces, or undergoing ser-  
42 vice-connected hospitalization up to one (1) year following discharge. The  
43 application must be submitted within one hundred twenty (120) days of separa-  
44 tion from the armed forces or hospitalization and prior to the expiration  
45 of the register established as a result of the examination. A disabled vet-  
46 eran may file an application at any time up until a selection has been made  
47 for any position for which the division maintains a register as a source for  
48 future job openings or for which a register is about to be established, pro-  
49 vided he or she has not already been examined twice for the same position and

1 grade for which application is made, does not have current eligibility on  
2 that register, or is not serving in a competitive position in the same grade  
3 for which application is made. Examinations may be assembled or unassembled  
4 and may include various examining techniques such as rating of training and  
5 experience, written tests, oral interviews, recognition of professional li-  
6 censing, performance tests, investigations and any other measure of abil-  
7 ity to perform the duties of the position. Examinations shall be scored ob-  
8 jectively. Five (5) ~~percentage~~ points shall be added to the earned rating  
9 of any veteran as defined in section 65-502, Idaho Code, and the widow or  
10 widower of any veteran as defined in section 65-502, Idaho Code, as long as  
11 he or she remains unmarried. Pursuant to section 65-504, Idaho Code, ten  
12 (10) ~~percentage~~ points shall be added to the earned rating of any disabled  
13 veteran as defined in section 65-502, Idaho Code, the widow or widower of  
14 any disabled veteran as long as he or she remains unmarried or the spouse  
15 of any eligible disabled veteran who cannot qualify for any public employ-  
16 ment because of a service-connected disability. Employment registers shall  
17 be established in order of final score except that the names of all five (5)  
18 and ten (10) ~~percentage~~ point preference eligibles resulting from any merit  
19 system or civil service examination shall be placed on the register in ac-  
20 cordance with their augmented rating. Certification of eligibility for ap-  
21 pointment to vacancies shall be in accordance with a formula which limits se-  
22 lection by the hiring department from among the twenty-five (25) top ranking  
23 available eligibles plus the names of all individuals with scores identi-  
24 cal to the twenty-fifth ranking eligible on the register. A register with at  
25 least five (5) eligibles shall be adequate. Selective certification shall  
26 be permitted when justified by the hiring department, under rules to be made  
27 by the division defining adequate justification based on the duties and re-  
28 quirements of the positions. Such examinations need not be held until af-  
29 ter the rules have been adopted, the service classified and a pay plan estab-  
30 lished, but shall be held not later than one (1) year after departments com-  
31 mence participation in the personnel system.

32 (g) A rule that, whenever practicable, a vacancy in a classified posi-  
33 tion shall be filled by the promotion of a qualified employee of the agency  
34 in which the vacancy occurs. An interagency promotion shall be made through  
35 competitive examination and all qualified state employees shall have the  
36 opportunity to compete for such promotions. If an employee's name appears  
37 within certifiable range on a current register for a higher class of posi-  
38 tion, he shall be eligible for a transfer and promotion.

39 (h) A rule for development and maintenance of a system of service rat-  
40 ings and the use of such ratings by all departments in connection with pro-  
41 motions, demotions, retentions, separations and reassignments. The rule  
42 shall require that an evaluation of each classified employee shall be made  
43 after each two thousand eighty (2,080) hour period of credited state ser-  
44 vice, and that a copy of the evaluation shall be filed with the division.

45 (i) A rule prohibiting disqualification of any person from taking an  
46 examination, from appointment to a position, from promotion, or from holding  
47 a position because of race or national origin, color, sex, age, political or  
48 religious opinions or affiliations, and providing for right of appeal.

49 (j) A rule establishing a probation period not to exceed one thousand  
50 forty (1,040) hours of credited state service for all appointments and pro-

1 motions, except that peace officers as defined in section 19-5101, Idaho  
2 Code, shall be subject to a probation period of two thousand eighty (2,080)  
3 hours of credited state service, and for the appointing authority to pro-  
4 vide the employee and the administrator a performance evaluation indicating  
5 satisfactory or unsatisfactory performance not later than thirty (30) days  
6 after the expiration of the probationary period. The rule shall provide that  
7 if the appointing authority fails to provide a performance evaluation within  
8 thirty (30) days after the expiration of the probationary period, the em-  
9 ployee shall be deemed to have satisfactorily completed the probation unless  
10 the appointing authority receives approval from the administrator to extend  
11 the probationary period for good cause for an additional specified period  
12 not to exceed one thousand forty (1,040) hours of credited state service. If  
13 an employee is performing in an unsatisfactory manner during the entrance  
14 probationary period, the appointing authority shall ask the employee to re-  
15 sign, and if no resignation is submitted, shall terminate the employment of  
16 such employee without the right of grievance or appeal.

17 (k) A rule concerning provisional appointments.

18 (l) A rule concerning temporary appointments.

19 (m) A rule governing the employment of consultants and persons retained  
20 under independent contract.

21 (n) A rule for the disciplinary dismissal, demotion, suspension or  
22 other discipline of employees only for cause with reasons given in writing.  
23 Such rule shall provide that any of the following reasons shall be proper  
24 cause for the disciplinary dismissal, demotion or suspension of any employee  
25 in the state classified service:

26 1. Failure to perform the duties and carry out the obligations imposed  
27 by the state constitution, state statutes and rules of the employee's  
28 department, or rules of the administrator or the division.

29 2. Inefficiency, incompetency, or negligence in the performance of  
30 duties, or job performance that fails to meet established performance  
31 standards.

32 3. Physical or mental incapability for performing assigned duties.

33 4. Refusal to accept a reasonable and proper assignment from an autho-  
34 rized supervisor.

35 5. Insubordination or conduct unbecoming a state employee or conduct  
36 detrimental to good order and discipline in the employee's department.

37 6. Intoxication on duty.

38 7. Careless, negligent, or improper use or unlawful conversion of state  
39 property, equipment or funds.

40 8. Use of any influence which violates the principles of the merit sys-  
41 tem in an attempt to secure a promotion or privileges for individual ad-  
42 vantage.

43 9. Conviction of official misconduct in office, or conviction of any  
44 felony, or conviction of any other crime involving moral turpitude.

45 10. Acceptance of gifts in exchange for influence or favors given in the  
46 employee's official capacity.

47 11. Habitual pattern of failure to report for duty at the assigned place  
48 and time.

49 12. Habitual improper use of sick leave privileges.

- 1 13. Unauthorized disclosure of confidential information from official  
2 records.
- 3 14. Absence without leave.
- 4 15. Misstatement or deception in the application for the position.
- 5 16. Failure to obtain or maintain a current license or certificate law-  
6 fully required as a condition for performing the duties of the job.
- 7 17. Prohibited participation in political activities.
- 8 (o) A rule to establish procedures for maintenance of a record of the  
9 employment history and appropriate information relating to performance of  
10 all employees under the personnel system. For the purposes of this rule, the  
11 state shall be considered one (1) employer.
- 12 (p) Rules to provide for recruitment programs in cooperation with de-  
13 partment heads and the employment security agency in keeping with current  
14 employment conditions and labor market trends.
- 15 (q) Rules to establish procedures for examinations as necessary for the  
16 purpose of maintaining current registers from which to fill employment va-  
17 cancies.
- 18 (r) Other rules not inconsistent with the foregoing provisions of this  
19 section as may be necessary and proper for the administration and enforce-  
20 ment of this chapter.
- 21 (s) A rule concerning "project exempt" appointments.
- 22 (t) Rules relating to leave for state employees from official duties  
23 including, but not limited to, sick leave, military leave, jury duty, leaves  
24 of absence without compensation and such other forms of absence from perfor-  
25 mance of duties in the course of state employment as may be necessary.
- 26 (u) A rule providing up to twenty-five percent (25%) shift differential  
27 pay based on local market practices.
- 28 (v) A rule to establish guidelines for awarding employee suggestion  
29 awards set forth in sections 59-1603 and 67-5309D, Idaho Code.
- 30 (w) A rule to establish the reimbursement of moving expenses for a cur-  
31 rent or newly-hired state employee.
- 32 (x) A rule to allow, at the request of the hiring agency, temporary ser-  
33 vice time to count toward fulfilling entrance probationary requirements as  
34 established in subsection (j) of this section.
- 35 (y) A rule to allow, at the request of the hiring agency, acting ap-  
36 pointment service time to count toward fulfilling promotional probationary  
37 requirements as established in subsection (j) of this section.