

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 588

Introduced by Watermeier, 1; Bloomfield, 17; Price, 3.

Read first time January 23, 2013

Committee:

A BILL

1 FOR AN ACT relating to veterans; to amend sections 23-2529, 48-225,
2 48-226, 48-227, 48-229, 48-230, and 48-231, Reissue
3 Revised Statutes of Nebraska; to name the Veterans
4 Preference Act; to change veterans employment preference
5 provisions; to harmonize provisions; to provide an
6 operative date; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2529, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~23-2529 Veterans preference shall be granted to all~~
4 ~~applicants who are otherwise eligible for employment and who request~~
5 ~~such preference on their applications. In order to receive~~
6 ~~preference, the veteran must submit a copy of his or her discharge~~
7 ~~papers and, for disability credit, proof from the United States~~
8 ~~Department of Veterans Affairs that the disability is at least ten~~
9 ~~percent. To the passing score of veteran candidates, ten points shall~~
10 ~~be added for a disabled veteran and five points for all other~~
11 ~~veterans.~~

12 Veterans preference shall be given in accordance with the
13 Veterans Preference Act.

14 Sec. 2. Section 48-225, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 48-225 (1) Sections 48-225 to 48-231 shall be known and
17 may be cited as the Veterans Preference Act.

18 (2) As used in sections 48-225 to 48-231, unless the
19 context otherwise requires: the Veterans Preference Act:

20 (1)-(a) Veteran means:

21 (i) A any person who served full-time duty with military
22 pay and allowances in the armed forces of the United States, except
23 for training or for determining physical fitness, and was discharged
24 or otherwise separated with a characterization of honorable or
25 general (under honorable conditions); (ii) a disabled veteran; and

1 (iii) the spouse of a veteran who has a one hundred percent service
2 connected disability as determined by the United States Department of
3 Veterans Affairs;

4 ~~(2)-(b) Full-time duty means duty during time of war or~~
5 ~~during a period recognized by the United States Department of~~
6 ~~Veterans Affairs as qualifying for veterans benefits administered by~~
7 ~~the department; and that such duty from January 31, 1955, to February~~
8 ~~28, 1961, exceeded one hundred eighty days unless lesser duty was the~~
9 ~~result of a service connected or service aggravated disability;~~

10 (c) Competent means a good faith determination that the
11 person is likely to successfully meet the performance standards of
12 the position based on what a reasonable person knowledgeable in the
13 operation of the position would conclude from all information
14 available at the time the decision is made. The basis for such
15 determination shall include experience, training, education,
16 licensure, certification, or other factors determined by the
17 decisionmaking authority as appropriate to determine the applicant's
18 overall qualification and ability to successfully meet the
19 performance standards of the position. The decisionmaking authority
20 shall document such factors prior to the initiation of the selection
21 process;

22 ~~(3)-(d) Disabled veteran means an individual who has~~
23 ~~served on active duty in the armed forces of the United States, has~~
24 ~~been discharged or otherwise separated with a characterization of~~
25 ~~honorable or general (under honorable conditions) therefrom, and has~~

1 established the present existence of a service-connected disability
2 or is receiving compensation, disability retirement benefits, or
3 pension because of a public statute administered by the United States
4 Department of Veterans Affairs or a military department; and

5 (e) Key employee means an office filled by popular
6 election, a department or agency head, a policy-making position, or
7 person serving as the immediate subordinate, secretary, or
8 administrative assistant of a person holding such positions.

9 ~~(4) Preference eligible means any veteran as defined in~~
10 ~~this section.~~

11 Sec. 3. Section 48-226, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 48-226 ~~A preference shall be given to preference~~
14 ~~eligibles seeking employment with the State of Nebraska or its~~
15 ~~governmental subdivisions.~~

16 (1) Except as provided in subsection (2) of this section,
17 veterans shall be given a veterans preference for initial employment
18 in positions with the state or its governmental subdivisions, if the
19 veteran is competent to perform such services. A veteran shall not be
20 disqualified from holding such position on account of the veteran's
21 age or by reason of any physical or mental disability as long as such
22 age or disability does not render the veteran incompetent to perform
23 the duties of the position. When a veteran applies for such position,
24 the person whose duty it is to fill such position shall, if the
25 applicant is a veteran and can competently perform the duties of the

1 position applied for, consider the veteran for appointment to such
2 position. Within thirty days after filling a position, veterans who
3 have applied and are not hired shall be notified by regular mail,
4 electronic mail, phone call, or personal service that they have not
5 been hired. Such notice also shall advise the veteran of any
6 administrative appeal available.

7 (2) A veterans preference is not available for employment
8 positions:

9 (a) Of key employees;

10 (b) Held by a patient, inmate, or student enrolled at a
11 state institution; or

12 (c) That are temporary or casual positions.

13 Sec. 4. Section 48-227, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~48-227 Veterans who obtain passing scores on all parts or~~
16 ~~phases of an examination shall have five percent added to their~~
17 ~~passing score if a claim for such preference is made on the~~
18 ~~application. An additional five percent shall be added to the passing~~
19 ~~score of any disabled veteran.~~

20 (1) All notices of open positions of employment available
21 for veterans preference and all applications for such positions by
22 the state or its governmental subdivisions shall state that the
23 position is subject to a veterans preference, how the preference
24 works, and how veterans may take advantage of the preference and post
25 a written statement of: (a) The qualifications for such position; (b)

1 any preferred qualifications of such position; (c) performance
2 standards for the position; and (d) the process that will be used for
3 selection. A veteran desiring to use a veterans preference shall
4 provide the hiring authority with a copy of the veteran's Defense
5 Department Form 214, also known as DD214, which qualifies the veteran
6 for the preference; and

7 (2) Every employment center or human resources department
8 of the state or its governmental subdivisions shall openly display
9 documents that indicate that veterans are eligible for a preference
10 in their initial employment in positions of employment available for
11 veterans preference.

12 Sec. 5. Section 48-229, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 48-229 It shall be the duty of the Commissioner of Labor
15 to enforce the ~~provisions of sections 48-225 to 48-231. Veterans~~
16 Preference Act. The commissioner shall act on veterans preference
17 claims as follows:

18 (1) When the employing agency and the claimant are in
19 disagreement or when there is doubt as to any preference claim, the
20 commissioner shall adjudicate the claim based on information given in
21 the claim, the documents supporting the claim, and information which
22 may be received from the armed forces of the United States, the
23 United States Department of Veterans Affairs, or the National
24 Archives and Records Administration;

25 (2) The commissioner shall allow a tentative ~~five percent~~

1 veterans preference, pending receipt of additional information, to
2 any person who claims ~~either a five percent or a ten percent a~~
3 veterans preference but who furnishes insufficient information to
4 establish entitlement thereto at the time of examination; and

5 (3) The commissioner shall decide appeals from veterans
6 preference determinations made by any employing agency.

7 Sec. 6. Section 48-230, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 48-230 Any person who violates ~~sections 48-225 to 48-231~~
10 the Veterans Preference Act shall be guilty of a Class IV
11 misdemeanor. Such person shall be prohibited from receiving any
12 compensation from public funds until he or she complies with ~~sections~~
13 ~~48-225 to 48-231.~~ the act.

14 Sec. 7. Section 48-231, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 48-231 (1) The county attorneys, in their respective
17 counties, shall prosecute, before any court of appropriate
18 jurisdiction, all persons charged with violating ~~sections 48-225 to~~
19 ~~48-231.~~ the Veterans Preference Act.

20 (2) Any veteran who alleges that the state or a
21 governmental subdivision has not provided the veterans preference as
22 required by the Veterans Preference Act, after exhausting any
23 available administrative remedy, may bring an action in district
24 court.

25 Sec. 8. This act becomes operative on January 1, 2014.

1 Sec. 9. Original sections 23-2529, 48-225, 48-226,
2 48-227, 48-229, 48-230, and 48-231, Reissue Revised Statutes of
3 Nebraska, are repealed.