Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1131
(Representatives Schatz, Rohr, Louser, Belter)
(Senators Dever, Armstrong, Klein, Miller)

AN ACT to amend and reenact section 37-19.1-02 of the North Dakota Century Code, relating to the employment preference for veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-19.1-02 of the North Dakota Century Code is amended and reenacted as follows:

37-19.1-02. Public employment preference to veterans - Residency requirements.

1. Veterans are entitled to preference, over all other applicants, in recruitment and selection processes by governmental agencies, provided that such veteran is a United States citizen at the time of application for employment. Veterans qualified for preference may not be disqualified from holding any position with an agency because of physical or mental disability, unless the disability renders them unable to properly perform the duties of the position applied for. To receive veterans' preference, an applicant must submit the following documentation:

   a. An applicant claiming veterans' preference shall provide a copy of report of separation DD-214.

   b. An applicant claiming disabled veterans' preference shall provide a copy of report of separation DD-214 and a letter less than one year old from the veterans' administration indicating the veteran's disability status.

   c. An applicant claiming veterans' preference as an eligible spouse of a deceased veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and the veteran's death certificate.

   d. An applicant claiming disabled veterans' preference as an eligible spouse of a disabled veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and a letter less than one year old from the veterans' administration indicating the veteran's disability status.

2. When a veteran applies for employment to a position that is not being filled through a competitive personnel system, the officer, board, or person whose duty it is to employ an individual to fill the available position shall investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall employ the veteran. A disabled veteran is entitled to a preference superior to that given other veterans under this section, which preference must be accorded in the manner provided in this section. If the group of eligible individuals includes either veterans or disabled veterans, the employing authority of that particular agency or governmental agency shall make a selection for the available position as follows:

   a. A disabled veteran is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed. If the list includes two or more disabled veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group

through means including interviews, background checks, and skills testing. A disabled veteran from the group of eligible individuals is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed.

b. If the group of eligible individuals does not include one or more disabled veterans and consists only of veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A veteran from the group of eligible individuals is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed.

c. If the group of eligible individuals includes nonveterans and veterans, but not disabled veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A veteran from the group of eligible individuals is first entitled to the position and must be employed unless there is justifiable cause that is documented in writing for not employing that veteran.

3. When a veteran applies for employment to a position that is being filled through a competitive personnel system, the officer, board, or person whose duty it is to employ an individual to fill the available position shall investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall employ the following:

a. No distinction or discrimination may be made in the administration of the competitive personnel system examination because the applicant may be a veteran.

b. Upon receipt of proof required in subsection 1, on a one hundred point scale, the examiner shall add five points for a veteran and ten points for a disabled veteran to the examination grade of the applicant. The total is the veteran's examination score. If a scale other than a one hundred point scale is used, the examiner shall add five percent of the scale used for a veteran and ten percent of the scale used for a disabled veteran to the examination grade of the applicant. The total is the veteran's examination score.

c. The employing authority shall designate a prescribed number of eligible individuals to be considered from the top number of the group of eligible candidates in rank order, from highest to lowest, based on the applicant's final score.

d. The employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing.

4. This section does not apply when the position to be filled is that of ~~a superintendent of schools, teacher,~~an administrative head of a department required by law~~,~~ or the chief deputy or private secretary of an elected or appointed official~~; the chancellor and vice chancellors of the board of higher education; and presidents or executive deans, vice presidents, assistants to the president, provosts, instructors, and athletic team coaches of board institutions~~. Temporary committees and individual or group appointments made by the governor or legislative assembly are also excepted from the provisions of this section. If an exempt position is advertised, the advertisement must state that veterans' preference does not apply to the position being advertised.

5. An employee of a state agency is not eligible for preference when applying for a different job within the same state agency or other state agencies. An employee of a political subdivision is not eligible for preference when applying for a different job within the same political subdivision.

Wesley R. Belter
Speaker of the House

President of the Senate

Bull J. Reich
Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1131.

House Vote:	Yeas 91	Nays 2	Absent 1
Senate Vote:	Yeas 26	Nays 21	Absent 0

Bull J. Reich
Chief Clerk of the House

Received by the Governor at 10:30 A.M. on March 13, 2015.

Approved at 2:37 p.M. on March 16, 2015.

Jack Dalrymple
Governor

Filed in this office this 16th day of March, 2015,

at 3:27 o'clock P M.

Secretary of State