

ENGROSSED LEGISLATIVE BILL 144

Introduced by Rountree, 3; Holdcroft, 36; Prokop, 27; Sanders, 45; Conrad, 46; Andersen, 49.

A BILL FOR AN ACT relating to labor; to amend sections 48-225, 48-226, 48-227, and 48-238, Reissue Revised Statutes of Nebraska; to change provisions relating to veterans preferences for public and private employers; and to repeal the original sections.

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

Section 1. Section 48-225, Reissue Revised Statutes of Nebraska, is amended to read:

48-225 For purposes of sections 48-225 to 48-231:

(1) Servicemember means a person who serves in the armed forces of the United States;

(2) Veteran means:

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

(b) The spouse of a veteran who (i) has a one hundred percent permanent disability as determined by the United States Department of Veterans Affairs or (ii) was killed in the line of duty or died due to his or her military service;

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

(4) Disabled veteran means an individual who has served on active duty in the armed forces of the United States, has been discharged or otherwise separated with a characterization of honorable or general (under honorable

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

(5) Preference eligible means any veteran as defined in this section or the spouse of a servicemember as defined in this section, except that for a spouse of a servicemember such preference is limited to the time during which the servicemember remains on active status and up to one hundred eighty days after the servicemember's discharge or separation from service; and

(6) Veterans preference means the preference given to preference eligibles pursuant to sections 48-225 to 48-231.

Sec. 2. Section 48-226, Reissue Revised Statutes of Nebraska, is amended to read:

48-226 A preference shall be given to preference eligibles seeking employment with the State of Nebraska or its governmental subdivisions. Such preference includes initial employment, reassignment, a transfer to a new position, and a return to employment with the State of Nebraska or its governmental subdivisions if termination of previous employment was for other than disciplinary reasons.

Sec. 3. Section 48-227, Reissue Revised Statutes of Nebraska, is amended to read:

48-227 (1) Preference eligibles who obtain passing scores on all parts or phases of an examination or numerical scoring shall have five percent added to their passing score if a claim for such preference is made on the application. An additional five percent shall be added to the passing score or numerical scoring of any disabled veteran.

(2) When no examination or numerical scoring is used, the preference shall be given to the preference eligible if two or more equally qualified candidates are being considered for the position. If two or more preference eligibles are being considered for the position, the veterans preference shall be applied equally to all such preference eligibles.

(3) All notices of positions of employment available for veterans preference and all applications for such positions by the state or its governmental subdivisions shall state that the position is subject to a veterans preference.

(4)(a) A veteran desiring to use a veterans preference shall provide the hiring authority with a copy of the veteran's Department of Defense Form 214, also known as the DD Form 214, or its successor form or record.

(b) A spouse of a veteran desiring to use a veterans preference shall provide the hiring authority with (i) a copy of the veteran's Department of Defense Form 214 or its successor form or record, (ii) a copy of the veteran's disability verification from the United States Department of Veterans Affairs demonstrating a one hundred percent permanent disability rating or documentation showing the veteran was killed in the line of duty or died due to his or her military service, whichever is applicable and (iii) proof of marriage to the veteran.

(c) A spouse of a servicemember desiring to use a veterans preference shall provide the hiring authority with proof of the servicemember's active status and proof of marriage to the servicemember.

(d) Any marriage claimed for veterans preference must be valid under Nebraska law.

(5) Within thirty days after filling a position, preference eligibles who have applied and are not hired shall be notified by regular mail, electronic mail, telephone call, or personal service that they have not been hired. Such notice also shall advise the preference eligible of any administrative appeal available.

Sec. 4. Section 48-238, Reissue Revised Statutes of Nebraska, is amended to read:

48-238 (1) For purposes of this section:

(a) Preference eligible means any veteran as defined in this section or the spouse of a servicemember as defined in this section, except that for a spouse of a servicemember such preference is limited to the time during which

the servicemember remains on active status and up to one hundred eighty days after the servicemember's discharge or separation from service;

(b) Private employer means a sole proprietorship, a corporation, a partnership, an association, a limited liability company, or any other entity with one or more employees;

(c) Servicemember means a person who serves in the armed forces of the United States;

(d) Veteran means (i) a person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), or (ii) the spouse of a veteran who (A) has a one hundred percent permanent disability as determined by the United States Department of Veterans Affairs or (B) was killed in the line of duty or died due to his or her military service; and

(e) Voluntary veterans preference employment policy means a private employer's voluntary preference for hiring and promoting a preference eligible over another equally qualified applicant or employee.

(2) A private employer may adopt a voluntary veterans preference employment policy. Such policy shall be in writing and applied uniformly to decisions regarding hiring and promotion.

(3) If a private employer offers a voluntary veterans preference employment policy:

(a) A veteran desiring to use such policy shall provide the private employer with a copy of the veteran's Department of Defense Form 214, also known as the DD Form 214, or its successor form or record;

(b) A spouse of a veteran desiring to use such policy shall provide the private employer with a copy of the veteran's Department of Defense Form 214 or its successor form or record, proof of marriage to the veteran, and (i) a copy of the veteran's disability verification from the United States Department of Veterans Affairs demonstrating a one hundred percent permanent disability

rating, (ii) a copy of the veteran's Department of Defense Form 1300 or its successor form documenting that the veteran was killed in the line of duty, or (iii) other documentation showing that the veteran died due to his or her military service; and

(c) A spouse of a servicemember desiring to use such policy shall provide the private employer with proof of the servicemember's active status and proof of marriage to the servicemember.

(4) If a private employer implements a voluntary veterans preference employment policy, it shall notify the Commissioner of Labor of such policy. The commissioner shall use the information to maintain a registry of the private employers that have a voluntary veterans preference employment policy in Nebraska.

(5) A voluntary veterans preference employment policy shall not be considered a violation of any state or local equal employment opportunity law including the Nebraska Fair Employment Practice Act.

Sec. 5. Original sections 48-225, 48-226, 48-227, and 48-238, Reissue Revised Statutes of Nebraska, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 144 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR