

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 568

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO VETERANS; AMENDING SECTION 65-501, IDAHO CODE, TO REMOVE REFERENCES TO INITIAL EMPLOYMENT; AMENDING SECTION 65-502, IDAHO CODE, TO REVISE DEFINITIONS AND TO REMOVE THE DEFINITION OF "INITIAL APPOINTMENT"; AMENDING SECTION 65-503A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO APPLICATION FORMS; AND AMENDING SECTION 65-504, IDAHO CODE, TO REMOVE REFERENCES TO INITIAL APPOINTMENT, TO PROVIDE FOR THE ADDITION OF SPECIFIED PERCENTAGE POINTS TO THE EARNED RATING OF CERTAIN SPOUSES OF SERVICE-CONNECTED DISABLED VETERANS, TO REMOVE PROVISIONS RELATING TO CIRCUMSTANCES UNDER WHICH ADDITIONAL POINTS MAY BE USED, TO REVISE PROVISIONS RELATING TO SERVICE-CONNECTED DISABILITIES AND TO REMOVE PROVISIONS RELATING TO THE ADDITION OF POINTS TO THE EARNED RATING OF CERTAIN WIDOWS, WIDOWERS AND SPOUSES.

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

SECTION 1. That Section 65-501, Idaho Code, be, and the same is hereby amended to read as follows:

65-501. STATEMENT OF PURPOSE. It is the intent of the legislature to honor veterans of the armed forces by providing preference in ~~initial~~ appointments to public sector jobs in Idaho. Veteran's preference is intended to honor those citizens who have served their country in active duty by providing veterans a more favorable competitive position for government employment and acknowledging the larger sacrifice of disabled veterans. Eligible veterans are provided advantages in public employment in Idaho, including preference for ~~initial~~ employment and retention in the event of layoffs. Veteran's preference requires public employers to provide additional consideration for eligible veterans, but it does not guarantee the veteran a job.

SECTION 2. That Section 65-502, Idaho Code, be, and the same is hereby amended to read as follows:

65-502. DEFINITIONS. As used in this chapter:

(1) "Applicant" means an individual applying for a position with a public employer.

(2) "Armed forces" means the army, navy, marine corps, coast guard, air force, and the reserve components thereof.

(3) "Civil service position" means a position for which the public employee is selected from a pool of applicants through a competitive examination, a merit system or any other rating system based on experience and qualifications.

(4) "Disabled veteran" means those veterans separated under honorable conditions who:

(a) Qualify as disabled veterans because they have served on active duty in the armed forces and have a current service-connected disability of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or

(b) Are purple heart recipients.

(5) "Honorable conditions" means an honorable discharge or a general discharge "under honorable conditions."

(6) ~~"Initial appointment" means the first time a qualified veteran is hired by a county or a municipal government or the state, provided however, subsequent separation from the county, municipal government or the state shall not result in the award of new preference or preference points with that governmental entity. "Initial appointment" shall not include:~~

~~(a) Jobs held by patients, inmates or students in or enrolled at a state institution;~~

~~(b) Temporary or casual employment; or~~

~~(c) An office filled by election.~~

~~(7)~~ "Key employee" means an individual specifically hired for an "at will" position that is not a civil service position and where:

(a) The position requires an advanced degree and the exercise of independent judgment for a majority of the public employee's duties;

(b) The primary duty of the position is the management of a department or subdivision of the public employer and the position requires the exercise of independent judgment for a majority of position duties;

(c) The primary duty of the position is administrative work arising from the management of a department or subdivision of the public employer or administrative work arising from the exercise of the duties of an elected official and the public employee holds a confidential relationship to the appointing or employing officer or elected official; or

(d) The primary duty of the position is to provide advice or consultation to an elected official and the public employee holds a confidential relationship to the elected official.

~~(8)~~ "Military duty" means training and service performed by an inductee, enlistee or reservist or any entrant into a component of the armed forces of the United States, provided "military duty" shall not include active duty training as a reservist in the armed forces of the United States or as a member of the national guard of the United States where the call is for training only.

~~(9)~~ "Position" means a job held by a public employee but shall not include:

(a) A job held by a patient, inmate or student in or enrolled at a state institution;

(b) Temporary or casual employment; or

(c) An office filled by election.

~~(10)~~ "Preference eligible" means an individual eligible for preference under section 65-503, Idaho Code.

~~(11)~~ "Public employee" means any person holding a position in public employment.

1 (121) "Public employer" means any government, department or agency  
2 mentioned in subsection (132) of this section employing a public employee in  
3 a position.

4 (132) "Public employment" means employment by the government of this  
5 state, or by any county, municipality or other political subdivision of the  
6 state, including any department or agency thereof.

7 (143) "Register" means a list of names of persons who have been deter-  
8 mined to be eligible for employment in a civil service position.

9 (154) "Service-connected disability" means that the veteran is dis-  
10 abled due to injury or illness that was incurred in or aggravated by military  
11 service as certified by the federal veterans administration or an agency of  
12 the department of defense.

13 (165) "Temporary or casual employment" means employment for a brief,  
14 nonrecurrent period where there is no reasonable expectation that such em-  
15 ployment will continue indefinitely or for a significant period of time.

16 (176) "Veteran" means any person who has been discharged or released  
17 from active duty in the armed forces under honorable conditions and has:

18 ~~(a) Served on active duty in the armed forces during a war, in a campaign~~  
19 ~~or expedition for which a campaign badge has been authorized, or during~~  
20 ~~the period beginning April 28, 1952, and ending July 1, 1955;~~

21 ~~(b) Served on active duty as defined in 38 U.S.C. section 101(21) at any~~  
22 ~~time in the armed forces for a period of more than one hundred eighty~~  
23 ~~(180) consecutive days, any part of which occurred after January 31,~~  
24 ~~1955, and before October 15, 1976, not including service under 10 U.S.C.~~  
25 ~~section 12103(d) pursuant to an enlistment in the army national guard or~~  
26 ~~the air national guard or as a reserve for service in the army reserve,~~  
27 ~~naval reserve, air force reserve, marine corps reserve or coast guard~~  
28 ~~reserve;~~

29 ~~(c) Served on active duty as defined in 38 U.S.C. section 101(21) in the~~  
30 ~~armed forces during the period beginning on August 2, 1990, and ending~~  
31 ~~on January 2, 1992; or~~

32 ~~(d) Served as may be further defined in 5 U.S.C. section 2108.~~

33 SECTION 3. That Section 65-503A, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 65-503A. EMPLOYER OBLIGATIONS. (1) Public employers must give notice  
36 in all announcements and advertisements of vacancies that preference in ap-  
37 pointment will be given to preference applicants. Application forms must  
38 inquire whether the applicant is claiming veteran's preference and whether  
39 ~~the applicant has previously claimed such a preference.~~ An applicant claim-  
40 ing preference is responsible for providing required documentation at the  
41 time of making application. The employer must inform applicants of the re-  
42 quirements for documentation.

43 (2) In all public employment, excluding key employee positions, the  
44 hiring official shall give preference to preference eligible applicants.

45 (3) An application for appointment to a position will be accepted after  
46 the closing date of the examination from an applicant who was serving in the  
47 armed forces, or undergoing service-connected hospitalization up to one (1)  
48 year following discharge. The application must be submitted within one hun-  
49 dred twenty (120) days of the applicant's separation from the armed forces

1 or hospitalization, prior to the expiration of any register established as a  
2 result of the examination, and prior to the selection for the position.

3 (4) A disabled veteran may file an application at any time up until a  
4 selection has been made for any position for which a register is then main-  
5 tained as a source for future job openings, or for which a register is about  
6 to be established, provided he or she has not already been examined twice for  
7 the same position and grade for which application is made, does not have cur-  
8 rent eligibility on that register, or is not serving in a competitive posi-  
9 tion in the same grade for which application is made. If a register is not  
10 used as a part of the selection process, a disabled veteran may file an appli-  
11 cation after the closing date, but such application will only be considered  
12 if a selection has not been made and the selection process is still active.

13 (5) An appointing authority may refuse to accept an application from an  
14 otherwise qualified preference eligible applicant who is deemed unqualified  
15 through his or her actions. Examples of such actions include dismissal for  
16 cause from a public entity, a felony conviction, or conduct unbecoming a pub-  
17 lic employee. Such refusal must be supported by good cause and is appealable  
18 pursuant to section 65-506, Idaho Code.

19 SECTION 4. That Section 65-504, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 65-504. BASIC PREFERENCE AND ADDITION OF POINTS TO COMPETITIVE EXAMI-  
22 NATION RATINGS. (1) An applicant who is preference eligible is entitled to a  
23 preference in ~~initial~~ appointment with a public employer over other appli-  
24 cants for the same position who are not more qualified.

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

26 (a) Five (5) percentage points shall be added to the earned rating of  
27 any veteran and the widow or widower of any veteran as long as he or she  
28 remains unmarried. Five (5) percentage points shall be added to the  
29 earned rating of the spouse of a service-connected disabled veteran if  
30 the veteran cannot qualify for any public employment because of a ser-  
31 vice-connected disability. The names of all five (5) point preference  
32 eligible applicants shall be placed on the register in accordance with  
33 their augmented rating. ~~The additional points added by reason of vet-~~  
34 ~~eran's preference shall be used only for the purpose of initial appoint-~~  
35 ~~ment and not for the purpose of any promotion, transfer or reassignment.~~

36 (b) Ten (10) percentage points shall be added to the earned rating of  
37 veterans discharged under honorable conditions who qualify as disabled  
38 veterans because they have served on active duty in the armed forces at  
39 any time and have a current service-connected disability of ~~ten percent~~  
40 ~~(10%) or more.~~ Alternatively, ten (10) percentage points shall be added  
41 to the earned rating of the widow or widower of any disabled veteran as  
42 long as he or she remains unmarried or the spouse of any eligible dis-  
43 abled veteran who cannot qualify for any public employment because of a  
44 service-connected disability. The names of all ten (10) point prefer-  
45 ence eligible applicants shall be placed on the register in accordance  
46 with their augmented rating. ~~The additional points added by reason of~~  
47 ~~veteran's preference shall be used only for the purpose of initial ap-~~  
48 ~~pointment and not for the purpose of any promotion, transfer or reas-~~  
49 ~~signment.~~

1 (c) Veterans discharged under honorable conditions who served on ac-  
2 tive duty in the armed forces at any time and have a current service-con-  
3 nected disability of thirty percent (30%) or more shall be offered an  
4 interview if they are one (1) of the qualified applicants on the regis-  
5 ter for the position. If applicants are not ranked, an interview must be  
6 offered to such veterans who fully meet all qualifications for the posi-  
7 tion. Notwithstanding this subsection, employers shall not be required  
8 to interview more than a total of ten (10) applicants regardless of the  
9 number of such qualified veteran applicants.