

CHAPTER 35C

VETERANS PREFERENCE

[P]

This chapter not enacted as a part of this title; transferred from chapter 70 in Code 1993

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35C.1 Appointments and employment — applications.

1. In every public department and upon all public works in the state, and of the counties, cities, and school corporations of the state, veterans who are citizens and residents of the United States are entitled to preference in appointment and employment over other applicants of no greater qualifications. The preference in appointment and employment for employees of cities under a municipal civil service is the same as provided in section 400.10. For purposes of this section, “veteran” means as defined in section 35.1 except that the requirement that the person be a resident of this state shall not apply.

2. a. In all jobs of the state and its political subdivisions, an application form shall be completed. The application form shall contain an inquiry into the applicant’s military service during the wars or armed conflicts as specified in subsection 1.

b. The department of administrative services shall inform the agency to which the person is seeking employment of the person’s military service as specified in subsection 1.

3. In all jobs of political subdivisions of the state which are to be filled by competitive examination or by appointment, public notice of the application deadline to fill a job shall be posted at least ten days before the deadline in the same manner as notices of meetings are posted under section 21.4.

4. For jobs in political subdivisions of the state that are filled through a point-rated qualifying examination, the preference afforded to veterans shall be equivalent to that provided for municipal civil service systems in section 400.10.

[S13, §1056-a15; C24, 27, 31, 35, 39, §1159; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.1]

85 Acts, ch 50, §1; 92 Acts, ch 1238, §17

C93, §35C.1

94 Acts, ch 1189, §16; 2000 Acts, ch 1154, §6; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §201; 2009 Acts, ch 150, §1; 2009 Acts, ch 179, §108

35C.2 Physical disability.

The persons thus preferred shall not be disqualified from holding any position hereinbefore mentioned on account of age or by reason of any physical disability, provided such age or disability does not render such person incompetent to perform properly the duties of the position applied for.

[S13, §1056-a15; C24, 27, 31, 35, 39, §1160; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.2]

C93, §35C.2

35C.3 Duty to investigate and appoint.

When any preferred person applies for appointment or employment under this chapter, the officer, board, or person whose duty it is or may be to appoint or employ a person to fill the position or place shall, before appointing or employing a person to fill the position or place, make an investigation as to the qualifications of the applicant for the place or position, and if the applicant is of good moral character and can perform the duties of the position applied for, the officer, board, or person shall appoint the applicant to the position, place, or employment.

The appointing officer, board, or person shall set forth in writing and file for public inspection the specific grounds upon which it appointed or refused to appoint the person. At the time of application or at an interview for the position, an applicant may request notification of refusal only or notification of refusal and the specific grounds for refusal. The notification shall be sent within ten days after the successful applicant is selected.

[S13, §1056-a15; C24, 27, 31, 35, 39, §1161; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.3]

C93, §35C.3

99 Acts, ch 180, §11; 2000 Acts, ch 1106, §1

35C.4 Mandamus — judicial review.

A refusal to allow said preference, or a reduction of the salary for said position with intent to bring about the resignation or discharge of the incumbent, shall entitle the applicant or incumbent, as the case may be, to maintain an action of mandamus to right the wrong. At their election such parties may, in the alternative, maintain an action for judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, if that is otherwise applicable to their case.

[S13, §1056-a15, -a16; C24, 27, 31, 35, 39, §1162; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.4]

C93, §35C.4

2003 Acts, ch 44, §114

35C.5 Appeals.

In addition to the remedy provided in section 35C.4, an appeal may be taken by any person belonging to any of the classes of persons to whom a preference is hereby granted, from any refusal to allow said preference, as provided in this chapter, to the district court of the county in which such refusal occurs. The appeal shall be made by serving upon the appointing board within twenty days after the date of the refusal of said appointing officer, board, or persons to allow said preference, a written notice of such appeal stating the grounds of the appeal; a demand in writing for a certified transcript of the record, and all papers on file in the office affecting or relating to said appointment. Thereupon, said appointing officer, board, or person shall, within ten days, make, certify, and deliver to appellant such a transcript; and the appellant shall, within five days thereafter, file the same and a copy of the notice of appeal with the clerk of said court, and said notice of appeal shall stand as appellant's complaint and thereupon said cause shall be accorded such preference in its assignment for trial as to assure its prompt disposition. The court shall receive and consider any pertinent evidence, whether oral or documentary, concerning said appointment from which the appeal is taken, and if the court shall find that the said applicant is qualified as defined in section 35C.1, to hold the position for which the applicant has applied, said court shall, by its mandate, specifically direct the said appointing officer, board or persons as to their further action in the matter. An appeal may be taken from judgment of the said district court on any such appeal on the same terms as an appeal is taken in civil actions. At their election parties entitled to appeal under this section may, in the alternative, maintain an action for judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, if that is otherwise applicable to their case.

[C35, §1162-g1; C39, §1162.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.5]

C93, §35C.5

2003 Acts, ch 44, §114

[P] Appeals, R.App.P. 6.101, 6.102, 6.701

35C.5A Arbitration.

In addition to the remedies provided in sections 35C.4 and 35C.5, a person belonging to a class of persons qualifying for a preference may submit any refusal to allow a preference, or any reduction of the person's salary as described in section 35C.4, to arbitration within sixty days after written notification of the refusal or reduction. Within ten days after any submission, an arbitrator shall be selected by a committee that includes one member chosen

by the person refused preference, one member chosen by the appointing officer, board, or person, and one member who shall be a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association. The decision of the arbitrator shall be final and binding on the parties.

99 Acts, ch 180, §12

35C.6 Removal — certiorari — judicial review.

No person holding a public position by appointment or employment, and belonging to any of the classes of persons to whom a preference is herein granted, shall be removed from such position or employment except for incompetency or misconduct shown after a hearing, upon due notice, upon stated charges, and with the right of such employee or appointee to a review by a writ of certiorari or at such person's election, to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, if that is otherwise applicable to their case.

[S13, §1056-a16; C24, 27, 31, 35, 39, §1163; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.6]

C93, §35C.6

2003 Acts, ch 44, §114

35C.7 Burden of proof.

The burden of proving incompetency or misconduct shall rest upon the party alleging the same.

[S13, §1056-a16; C24, 27, 31, 35, 39, §1164; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.7]

C93, §35C.7

35C.8 Exceptions.

Nothing in this chapter shall be construed to apply to the position of private secretary or deputy of any official or department, or to any person holding a strictly confidential relation to the appointing officer.

[S13, §1056-a16; C24, 27, 31, 35, 39, §1165; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.8]

C93, §35C.8