

MAR 9 2005
STATE GOVERNMENT

HOUSE FILE 667
BY HUNTER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act concerning veterans, relating to employment preference and
2 other benefits.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 667

1 Section 1. Section 8A.413, subsection 21, Code 2005, is
2 amended to read as follows:

3 21. For veterans preference through a provision that
4 veterans, as defined in section 35.1, shall ~~have five points~~
5 ~~added to the grade or score attained in qualifying~~
6 ~~examinations for appointment to jobs~~ receive employment
7 preference as provided in chapter 35C.

8 ~~Veterans who have a service-connected disability or are~~
9 ~~receiving compensation, disability benefits, or pension under~~
10 ~~laws administered by the veterans administration shall have~~
11 ~~ten points added to the grades attained in qualifying~~
12 ~~examinations. A veteran who has been awarded the purple heart~~
13 ~~for disabilities incurred in action shall be considered to~~
14 ~~have a service-connected disability.~~

15 Sec. 2. Section 19B.2, Code 2005, is amended to read as
16 follows:

17 19B.2 EQUAL OPPORTUNITY IN STATE EMPLOYMENT -- AFFIRMATIVE
18 ACTION.

19 It is the policy of this state to provide equal opportunity
20 in state employment to all persons. An individual shall not
21 be denied equal access to state employment opportunities
22 because of race, creed, color, religion, national origin, sex,
23 age, or physical or mental disability, veterans' service-
24 connected disability, or for opportunities forestalled due to
25 service in the armed forces. It also is the policy of this
26 state to apply affirmative action measures to correct
27 deficiencies in the state employment system where those
28 remedies are appropriate. This policy shall be construed
29 broadly to effectuate its purposes.

30 It is the policy of this state to permit special
31 appointments by bypassing the usual testing procedures for any
32 applicant for whom the division of vocational rehabilitation
33 services of the department of education or the department for
34 the blind, or if the individual is a veteran, the commission
35 of veterans affairs and the United States department of

1 veterans affairs vocational, rehabilitation and employment
2 service, has certified the applicant's disability and
3 competence to perform the job. The department of
4 administrative services, in cooperation with the department
5 for the blind, and the division of vocational rehabilitation
6 services, the commission of veterans affairs, and the United
7 States department of veterans affairs vocational,
8 rehabilitation and employment service, shall develop
9 appropriate certification procedures. In addition, the
10 commission of veterans affairs, in cooperation with the
11 departments of administrative services and workforce
12 development, shall institute a program coordinated with the
13 United States department of veterans affairs to transition
14 veterans with a service-connected disability into state
15 employment as provided by this section. This paragraph should
16 not be interpreted to bar promotional opportunities for
17 persons who are blind or persons with physical or mental
18 disabilities. If this paragraph conflicts with any other
19 provisions of this chapter, the provisions of this paragraph
20 govern.

21 Sec. 3. Section 19B.5, Code 2005, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 4. Reports required to be submitted
24 pursuant to this section shall include information on
25 employment of women, minorities, persons with disabilities,
26 veterans, and veterans with service-connected disabilities.

27 Sec. 4. Section 19B.7, subsection 1, paragraph a,
28 subparagraph (2), Code 2005, is amended to read as follows:

29 (2) The utilization of minority, women's, veterans',
30 disabled persons', service-connected disabled veterans', and
31 disadvantaged business enterprises as sources of supplies,
32 equipment, construction, and services.

33 Sec. 5. Section 19B.7, subsection 1, paragraph a, Code
34 2005, is amended by adding the following new subparagraphs:

35 NEW SUBPARAGRAPH. (4) State contractors and

1 subcontractors with contracts valued at one hundred thousand
2 dollars or more shall extend and enforce veterans employment
3 preference in the private sector in a manner that emulates the
4 preference provided in chapter 35C.

5 NEW SUBPARAGRAPH. (5) State contractors and
6 subcontractors with contracts valued at one hundred thousand
7 dollars or more shall implement affirmative action programs
8 for women, minorities, persons with disabilities, veterans,
9 and veterans with service-connected disabilities by July 1,
10 2006.

11 Sec. 6. Section 19B.7, subsection 1, paragraph d, Code
12 2005, is amended to read as follows:

13 d. Report results under the contract compliance policy to
14 the governor and the general assembly on an annual basis. The
15 report shall detail specific efforts to promote equal
16 opportunity through state contracts and services and efforts,
17 including the efforts of state contractors and subcontractors,
18 to promote, develop, and stimulate the utilization of
19 minority, women's, veterans', disabled persons', service-
20 connected disabled veterans', and disadvantaged business
21 enterprises in programs receiving or benefiting from state
22 financial assistance.

23 Sec. 7. Section 35.1, subsection 2, paragraph a,
24 unnumbered paragraph 1, Code 2005, is amended to read as
25 follows:

26 "Veteran" means a resident of this state who served in the
27 armed forces of the United States, active or reserves, in
28 active federal service, or served as a member of the Iowa
29 national guard, at any time during the following dates and who
30 was discharged under honorable conditions:

31 Sec. 8. Section 35.1, subsection 2, paragraph a, Code
32 2005, is amended by adding the following new subparagraphs:

33 NEW SUBPARAGRAPH. (14) Bosnia Herzegovina conflict from
34 April 6, 1992, through the date the president or the Congress
35 of the United States declares a cessation of hostilities. If

1 the United States Congress enacts a date different from April
2 6, 1992, as the beginning of the Bosnia Herzegovina conflict
3 for purposes of determining whether a veteran is entitled to
4 receive veteran benefits for service in the Bosnia Herzegovina
5 conflict, that date shall be substituted for April 6, 1992.

6 NEW SUBPARAGRAPH. (15) Somalia conflict from August 17,
7 1992, through March 3, 1995.

8 NEW SUBPARAGRAPH. (16) Afghanistan war from October 7,
9 2001, through the date the president or the Congress of the
10 United States declares a cessation of hostilities. If the
11 United States Congress enacts a date different from October 7,
12 2001, as the beginning of the Afghanistan war for purposes of
13 determining whether a veteran is entitled to receive veteran
14 benefits for service in the Afghanistan war, that date shall
15 be substituted for October 7, 2001.

16 NEW SUBPARAGRAPH. (17) Iraq war from March 20, 2003,
17 through the date the president or the Congress of the United
18 States declares a cessation of hostilities. If the United
19 States Congress enacts a date different from March 20, 2003,
20 as the beginning of the Iraq war for purposes of determining
21 whether a veteran is entitled to receive veteran benefits for
22 service in the Iraq war, that date shall be substituted for
23 March 20, 2003.

24 Sec. 9. Section 35.1, subsection 2, paragraph b, Code
25 2005, is amended by adding the following new subparagraph:

26 NEW SUBPARAGRAPH. (6) Any honorably discharged member of
27 the armed forces or national guard with a service-connected
28 disability rated at ten percent or more by the appropriate
29 component of the United States department of defense or the
30 United States department of veterans affairs or an honorably
31 discharged veteran who has been awarded the purple heart for
32 injuries incurred while participating in military operations,
33 regardless of service dates.

34 Sec. 10. NEW SECTION. 35C.1A POLICY.

35 It is the policy of this state to assist veterans of the

1 armed forces in readjusting to civilian life since veterans,
2 by virtue of their military service, have made personal and
3 economic sacrifices and forestalled opportunities to pursue
4 education, training, and networking oriented toward civilian
5 careers. The state has a very special obligation to disabled
6 veterans. In addition, Iowa is continually concerned with
7 building an effective workforce, and veterans constitute a
8 major recruiting source. It is, therefore, the policy of Iowa
9 to promote the maximum number of employment opportunities
10 within Iowa for veterans and disabled veterans.

11 Sec. 11. NEW SECTION. 35C.1B SCOPE.

12 Public employers of this state, including the state and its
13 political subdivisions, public utilities, state universities,
14 and public school districts, shall accord preferences in
15 employment appointment, unless provided otherwise by law, to
16 veterans as defined in section 35.1.

17 Sec. 12. NEW SECTION. 35C.2A APPOINTMENTS AND EMPLOYMENT
18 -- APPLICATIONS.

19 1. Public employers shall give notice in all announcements
20 and advertisements of employment vacancies that preference in
21 appointment and employment will be given to eligible veterans
22 as defined in section 35.1. The application deadline to fill
23 a job must be posted at least ten days before the deadline in
24 the same manner as notices of meetings are posted under
25 section 21.4. The application form shall contain an inquiry
26 as to whether the applicant is claiming veterans preference
27 and the employer shall inform applicants of the requirements
28 for documentation. The applicant claiming preference shall
29 provide required documentation at the time of application.

30 2. If the hiring authority of a public employer cancels or
31 withdraws a job that has been publicly announced and then
32 reannounces the position within one year of the cancellation
33 or withdrawal date, all preference-eligible veterans that were
34 on the original list of eligible applicants shall be included
35 on the new list of eligible applicants. If the hiring

1 authority does not fill a position and requests reannouncement
2 of the position because it claims no qualified candidates
3 applied under the first announcement, the department of
4 administrative services shall investigate this claim and
5 certify its accuracy before a reannouncement of the position
6 is authorized.

7 Sec. 13. NEW SECTION. 35C.2B PREFERENCE CATEGORIES.

8 1. PREFERENCE CATEGORY 1. The following persons shall be
9 included in preference category 1 for purposes of this
10 chapter:

11 a. A disabled veteran with a service-connected disability
12 rated ten percent or more by the United States department of
13 veterans affairs or an honorably discharged veteran who has
14 been awarded the purple heart for injuries incurred while
15 participating in military operations.

16 b. The spouse of a veteran with a service-connected
17 disability rated at one hundred percent by the United States
18 department of veterans affairs.

19 2. PREFERENCE CATEGORY 2. A veteran of any war or
20 conflict who has served on active duty for one day or more
21 during a wartime period or other period of time as described
22 in section 35.1, excluding active duty for training, and who
23 was discharged under honorable conditions from the armed
24 forces of the United States shall be included in preference
25 category 2 for purposes of this chapter.

26 Sec. 14. NEW SECTION. 35C.3A PREFERENCE REQUIRED AT EACH
27 STAGE.

28 1. An eligible veteran of good moral character is entitled
29 to preference at every stage of the hiring process subject to
30 the requirements of this chapter. A public employer's hiring
31 authority may elect to pass over an eligible veteran for a
32 lower ranked preference-eligible or non-preference-eligible
33 individual; however, this can be done only when sound reasons
34 exist that relate directly to the eligible veteran's physical
35 and mental fitness or personal suitability for employment and

1 pursuant to the requirements of subsection 2, if applicable.
2 If the public employer's hiring authority exercises this
3 option, it shall document its rationale in writing and retain
4 the records for two years. An eligible veteran is entitled to
5 copies of the written documentation upon written request to
6 the public employer's hiring authority or the department of
7 administrative services within ten days of the request date.

8 2. If a preference-eligible veteran is a thirty percent or
9 more service-connected disabled veteran, the public employer's
10 hiring authority shall notify the veteran, the director of the
11 department of administrative services, and the executive
12 director of the commission of veterans affairs that the hiring
13 entity intends to pass over the veteran as described in
14 subsection 1. The veteran has fifteen days from the date of
15 notification to seek review of the proposed pass over by the
16 director of the department of administrative services and the
17 executive director of the commission of veterans affairs. The
18 director of the department of administrative services and the
19 executive director of the commission of veterans affairs shall
20 decide, based on the facts available, whether the pass over
21 shall be approved or denied and shall notify the parties of
22 the decision. The decision of the director and executive
23 director shall be considered final agency action pursuant to
24 chapter 17A.

25 Sec. 15. NEW SECTION. 35C.3B VETERANS PREFERENCE
26 DETERMINATIONS.

27 1. NUMERICALLY BASED PROCESS. Employment preference, when
28 numerically based examination results are used as the device
29 for employment selection, consists of, once the applicant
30 attains a passing score, adding ten points to the test score
31 of each preference category 1 eligible applicant and five
32 points to the test score of each preference category 2
33 eligible applicant. Once the preference-eligible applicants'
34 test scores have been augmented, the names of all the
35 preference-eligible and non-preference-eligible applicants

1 must be placed on a register or employment list, beginning
2 with disabled veterans with a service-connected disability
3 rated at thirty percent or more, followed by all other
4 preference-eligible applicants and non-preference-eligible
5 applicants in rank order. Appointments to positions shall be
6 made from the appropriate register or employment list in
7 descending order from top to bottom by the applicants' ranked
8 position on the list.

9 2. NONNUMERICALLY BASED PROCESS. If a nonnumerically
10 based process is used in hiring, the job qualifications for
11 the position shall be included in the announcement of the
12 position and employment preference shall be given to
13 preference-eligible applicants in such a manner that
14 appointments emulate the appointments that would occur if a
15 numerically based process would have been used provided that
16 the preference-eligible applicant possesses the qualifications
17 necessary to carry out the duties of the job. For purposes of
18 this subsection, "qualifications" means the requisite
19 education, experience, special requirements, license, or
20 certification that gives the candidate the ability to perform
21 the duties of the job as specified by the public employer or
22 the department of administrative services.

23 Sec. 16. NEW SECTION. 35C.3C COMPLAINT -- MANDATORY
24 MEDIATION.

25 If an applicant claiming veterans preference for a vacant
26 position is not selected and believes that this action may be
27 in violation of this chapter, the applicant shall file a
28 complaint with the commission of veterans affairs. The
29 complaint must be filed within fifteen days of the applicant
30 receiving notice of the hiring decision made by the employing
31 entity or within three months of the date the application is
32 filed with the employer if no notice is given. The executive
33 director of the commission of veterans affairs shall conduct
34 an initial investigation of the complaint and mediate the
35 dispute between the parties in an attempt to reach a mutually

1 agreeable solution. If a solution is not attainable or if
2 fifteen days has passed since the complaint was filed with the
3 commission, the executive director of the commission of
4 veterans affairs shall officially notify the parties in
5 writing and inform the applicant of the applicant's rights
6 under this chapter.

7 Sec. 17. Section 35C.5, Code 2005, is amended to read as
8 follows:

9 35C.5 APPEALS.

10 ~~In-addition-to-the-remedy-provided-in-section-35C-4,-an~~ An
11 appeal may be taken by any person belonging to any of the
12 classes of persons to whom a preference is hereby granted
13 pursuant to this chapter, from any refusal to allow ~~said the~~
14 preference, as provided in this chapter, to the district court
15 of the county in which such refusal occurs. The appeal shall
16 be made by serving upon the appointing officer, board, or
17 person within ~~twenty~~ twenty-one days after the date ~~of-the~~
18 ~~refusal-of-said-appointing-officer,-board,-or-persons-to-allow~~
19 ~~said-preference~~ the parties have been notified as provided in
20 section 35C.3A, subsection 2, or section 35C.3C, a written
21 notice of such appeal stating the grounds of the appeal; and a
22 demand in writing for a certified transcript of the record;
23 and all papers on file in the office affecting or relating to
24 ~~said the~~ the appointment. Thereupon, ~~said the~~ the appointing officer,
25 board, or person shall, within ten days, make, certify, and
26 deliver to the appellant such a transcript; and the appellant
27 shall, within five days thereafter, file the same and a copy
28 of the notice of appeal with the clerk of ~~said~~ court, and ~~said~~
29 the notice of appeal shall stand as the appellant's complaint
30 and thereupon said cause shall be accorded such preference in
31 its assignment for trial as to assure its prompt disposition.
32 The court shall receive and consider any pertinent evidence,
33 whether oral or documentary, concerning ~~said the~~ the appointment
34 from which the appeal is taken, and if the court ~~shall-find~~
35 finds that the ~~said~~ applicant ~~is-qualified-as-defined-in~~

1 ~~section-35C-17-to-hold-the-position-for-which-the-applicant~~
2 ~~has-applied~~ did not receive the employment preference as
3 provided in this chapter, said the court shall, by its
4 mandate, specifically direct the said appointing officer,
5 board, or persons as to their further action in the matter.
6 Remedies the court may order include but are not limited to
7 hire orders, hire orders with retroactive hire dates, punitive
8 monetary awards if circumstances warrant, and reasonable and
9 customary attorney fees if in the interest of justice. An
10 appeal may be taken from the judgment of the said district
11 court on any such appeal on the same terms as an appeal is
12 taken in civil actions. At their election parties entitled to
13 appeal under this section may, in the alternative, maintain an
14 action for judicial review in accordance with the terms of the
15 Iowa administrative procedure Act, chapter 17A, if that is
16 otherwise applicable to their case.

17 Sec. 18. Section 35C.5A, Code 2005, is amended to read as
18 follows:

19 35C.5A ARBITRATION.

20 In addition to the remedies otherwise provided in sections
21 ~~35C-4-and-35C-5~~ this chapter, a person belonging to a class of
22 persons qualifying for a preference may submit any refusal to
23 allow a preference, or any reduction of the person's salary as
24 described in section 35C.4, to arbitration within sixty days
25 after written notification of the refusal or reduction.

26 Within ten days after any submission, an arbitrator shall be
27 selected by a committee that includes one member chosen by the
28 person refused preference, one member chosen by the appointing
29 officer, board, or person, and one member who shall be a
30 disinterested party selected by the other two members of the
31 committee. A list of qualified arbitrators may be obtained
32 from the American arbitration association or other recognized
33 arbitration organization or association. The decision of the
34 arbitrator shall be final and binding on the parties.

35 Sec. 19. Section 400.10, Code 2005, is amended to read as

1 follows:

2 400.10 PREFERENCES.

3 In all examinations and appointments under this chapter,
4 other than promotions and appointments of chief of the police
5 department and chief of the fire department, veterans as
6 defined in section 35.17-~~who are citizens and residents of~~
7 ~~this state, shall have five points added to the veteran's~~
8 ~~grade or score attained in qualifying examinations for~~
9 ~~appointment to positions and five additional points added to~~
10 ~~the grade or score if the veteran has a service connected~~
11 ~~disability or is receiving compensation, disability benefits~~
12 ~~or pension under laws administered by the veterans~~
13 administration shall receive preference as provided in chapter
14 35C. ~~An honorably discharged veteran who has been awarded the~~
15 ~~Purple Heart for disabilities incurred in action shall be~~
16 ~~considered to have a service connected disability.--However,~~
17 ~~the points shall be given only upon passing the exam and shall~~
18 ~~not be the determining factor in passing.~~

19 Sec. 20. Sections 35C.1, 35C.2, and 35C.3, Code 2005, are
20 repealed.

21 EXPLANATION

22 This bill provides for veterans preference in public
23 contracts and employment.

24 Code section 8A.413, concerning rules on awarding a
25 veterans preference, is amended to provide that veterans shall
26 be awarded a preference pursuant to Code chapter 35C as
27 modified by this bill. Under current law, veterans get an
28 additional five points in any qualifying examination and
29 disabled veterans get 10 points.

30 Code chapter 19B, concerning equal opportunity and
31 affirmative action, is amended to include veterans and
32 disabled veterans as a protected class. The bill provides
33 that current affirmative action reports shall include
34 statistics concerning veterans and disabled veterans. In
35 addition, Code section 19B.7, concerning state contracts, is

1 amended to provide that in awarding state contracts and
2 subcontracts valued at over \$100,000, affirmative action
3 programs and veterans preference in a manner similar to Code
4 chapter 35C shall be implemented.

5 Code section 35.1, concerning the definition of "veteran",
6 is amended by the bill. Under current law, a person can be
7 considered a veteran if the person's military service was
8 during several specified periods of time, usually coinciding
9 with a military war or conflict. In addition, current law
10 includes several categories of individuals as a veteran
11 regardless of when the service occurred. Both provisions are
12 amended in the bill. As to the time-specific definition, the
13 bill provides that a veteran can be a person who served in the
14 reserves or in active federal service or in the Iowa national
15 guard during the specified periods of time. The bill also
16 adds additional periods of time coinciding with the Bosnia
17 Herzegovina conflict, the Somalia conflict, the Afghanistan
18 war, and the Iraq war. As to the portion of the definition of
19 veteran that is not dependent on service during specified
20 periods, the bill adds any honorably discharged member of the
21 military with a 10 percent service-connected disability or who
22 was awarded the purple heart.

23 Code chapter 35C, governing veterans preference in public
24 employment, is amended by the bill.

25 New Code section 35C.1A provides that the policy of the
26 state should be to assist veterans and maximize their
27 employment opportunities.

28 New Code section 35C.1B provides that the provisions of
29 Code chapter 35C concerning veterans preference apply to the
30 state, political subdivisions of the state, public utilities,
31 state universities, and public school districts.

32 New Code section 35C.2A requires job announcements by
33 public employers to provide notice that preference will be
34 given to eligible veterans. The new Code section further
35 provides that if the hiring authority cancels a job

1 announcement, and then announces the job again within one
2 year, all preference-eligible veterans who were on the list
3 for the initial announcement will be on the list for the new
4 announcement. If the basis for a proposed reannouncement of
5 the position was that no qualified persons applied the first
6 time, the department of administrative services shall
7 investigate the claim and certify its accuracy before the new
8 announcement can be made.

9 New Code section 35C.2B establishes two preference
10 categories. Preference category 1 includes disabled veterans
11 or the spouse of a 100 percent disabled veteran. Preference
12 category 2 includes any veteran of any war or conflict who
13 served on active duty during any period of time specified in
14 Code section 35.1 and who was honorably discharged.

15 New Code section 35C.3A provides that an eligible veteran
16 shall be entitled to preference in hiring by a public
17 employer. The new Code section provides that an eligible
18 veteran can be passed over in favor of a lower ranked person
19 in hiring only when sound reasons exist that directly relate
20 to the veteran's fitness for employment. The reasons for
21 being passed over shall be documented and the veteran shall be
22 able to access the records. In addition, if the passed over
23 veteran has a 30 percent service-connected disability, the
24 veteran can seek review of the decision by the directors of
25 the department of administrative services and commission on
26 veterans affairs. The directors' decision to approve or
27 disapprove the decision not to hire the veteran is final
28 agency action.

29 New Code section 35C.3B provides for the process of
30 providing preference for veterans in hiring. The Code section
31 provides that if a numerically based process is used in
32 hiring, veterans in preference category 1 shall have 10
33 additional points added to their test scores while veterans in
34 preference category 2 shall have five additional points. In
35 addition, disabled veterans with a 30 percent or more service-

1 connected disability shall be placed first on the hiring list.
2 The new Code section provides that if a nonnumerically based
3 process of hiring is used, a process shall be implemented that
4 emulates that used under a numerically based process.

5 New Code section 35C.3C provides that an eligible veteran
6 claiming a preference and who believes their nonselection for
7 a position was in violation of Code chapter 35C may file a
8 complaint with the commission of veterans affairs. The
9 director of the commission shall investigate the complaint and
10 attempt to mediate the dispute. If mediation is unsuccessful
11 or if 15 days have passed since the veteran filed the
12 complaint, the veteran can seek redress under the provisions
13 of Code chapter 35C.

14 Code section 35C.5 is amended to provide that the time for
15 filing an appeal to district court claiming a violation of
16 Code chapter 35C is 21 days after the date the commission
17 sends the notice as provided by Code section 35C.3A,
18 subsection 2, or section 35C.3C.

19 Code section 400.10, concerning preferences granted in
20 examinations and appointment under civil service, is amended
21 to provide that the preference granted veterans shall be as
22 provided in Code chapter 35C.

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