

## **BILL ANALYSIS**

C.S.S.B. 805  
By: Campbell  
Economic & Small Business Development  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the percentage of state employees who are also veterans is too low in comparison with the percentage of the federal workforce that is comprised of veterans. C.S.S.B. 805 seeks to address this issue.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 805 amends the Government Code to remove as conditions on a veteran's eligibility for a veteran's employment preference that the veteran is competent, has served in the military for a minimum of 90 consecutive days during a national emergency or was discharged from military service for an established service-connected disability, and was honorably discharged from military service. The bill removes as conditions on the eligibility of a veteran's surviving spouse or orphan for a veteran's employment preference that the veteran served in the military for a minimum of 90 consecutive days during a national emergency and that the spouse or orphan is competent. The bill changes the definition of "veteran" used for purposes of statutory provisions governing a veteran's employment preference to a definition that includes a person who has served in the Texas military forces, in addition to persons who have served in the U.S. armed forces.

C.S.S.B. 805 removes a statutory provision entitling an individual who qualifies for a veteran's employment preference to a preference in employment with or appointment to a public entity or for a public work of the state and instead entitles such an individual to a preference in employment with or appointment to a state agency. The bill defines "state agency" for this purpose as a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government, including an institution of higher education. The bill removes the application of statutory provisions governing such employment preferences to a public entity or public work, including provisions establishing certain requirements relating to investigating applicants, reporting to the comptroller of public accounts, listing open positions with the Texas Workforce Commission (TWC), and responding to complaints. The bill instead applies those provisions to a state agency. The bill removes a statutory provision providing for complaints about a decision relating to a veteran's employment preference to be filed with the governing body of the public entity or public work and instead provides for those complaints to be filed with the executive director of

the state agency.

C.S.S.B. 805 removes statutory language restricting the positions in which a veteran with a disability is entitled to a preference for employment or appointment over all other applicants who are not veterans with a service-connected disability and who do not have a greater qualification to positions for which a competitive examination is not held and instead requires a state agency to provide to an individual entitled to a veteran's employment preference for employment or appointment over other applicants for the same position who do not have a greater qualification a veteran's employment preference, in the following order of priority: a veteran with a disability, a veteran, a veteran's surviving spouse who has not remarried, and an orphan of a veteran if the veteran was killed while on active duty. The bill removes a statutory provision establishing that a veteran's employment preference does not apply to the position of private secretary or deputy of an official or department or to a person holding a strictly confidential relation to the appointing or employing officer.

C.S.S.B. 805 removes the requirement that an individual whose duty is to appoint or employ individuals for a public entity or public work of the state give preference in hiring to individuals entitled to a veteran's employment preference so that at least 40 percent of the employees of the public entity or public work are selected from individuals given that preference. The bill instead requires each state agency to establish a goal of hiring, in full-time positions at the agency, a number of veterans equal to at least 40 percent of the total number of employees of the agency and authorizes an agency to establish a veteran employment goal greater than that percentage. The bill removes the requirement that a public entity or public work, when possible, give 10 percent of the veteran's employment preferences to qualified veterans discharged from the U.S. armed services within the preceding 18 months. The bill removes a statutory provision that exempts a public entity or public work that has at least 40 percent of its employees who are entitled to a veteran's employment preference from the requirements to investigate the qualifications of an applicant who is entitled to a veteran's employment preference and to employ the applicant if the applicant meets certain criteria.

C.S.S.B. 805 authorizes a state agency to designate an open position as a veteran's position and only accept applications for that position from individuals who are entitled to a veteran's employment preference. The bill authorizes an agency to hire or appoint for an open position within the agency an individual entitled to a veteran's employment preference without announcing or advertising the position if the agency uses the automated labor exchange system administered by the TWC to identify an individual who qualifies for a veteran's employment preference and if the agency determines the individual meets the qualifications required for the position.

C.S.S.B. 805 requires each state agency that has at least 500 full-time equivalent positions to designate an individual from the agency to serve as a veteran's liaison and authorizes an agency that has fewer than 500 full-time equivalent positions to make such a designation. The bill requires each state agency that designates a veteran's liaison to make available on the agency's website the liaison's individual work contact information. The bill requires a state agency, for each announced open position at the agency, to interview at least one individual qualified for a veteran's employment preference if the total number of individuals interviewed for the position is six or fewer or a number of individuals qualified for a veteran's employment preference equal to at least 20 percent of the total number interviewed for the position if the total number of individuals interviewed for the position is more than six.

C.S.S.B. 805 removes a requirement for an officer or the chief executive of a public entity or public work of the state or an individual whose duty is to appoint or employ an applicant for a position with a public entity or public work of the state, as applicable, to appoint or employ an applicant entitled to a veteran's employment preference if the applicant is of good moral character and can perform the duties of the position. The bill specifies that the statutory provision entitling an individual who is entitled to a veteran's hiring preference to a preference in retaining

employment if the agency that employs the individual reduces its workforce also applies to an individual entitled to an appointment preference if the state agency that appoints the individual reduces its workforce.

C.S.S.B. 805 requires the comptroller to make each quarterly report filed by a state agency with regard to veteran employment preferences available to the public on the comptroller's website. The bill revises the requirement that the report state the percentage of the total number of employees hired by the agency during the reporting period who are persons entitled to a veteran's employment preference by providing for the inclusion in that percentage of appointed employees who meet such criteria. The bill establishes a deadline of not later than December 1 of each year for the comptroller's annual report to the legislature that compiles and analyzes information the comptroller receives from state agencies in such quarterly reports.

C.S.S.B. 805 includes a decision of a state agency relating to appointing an individual entitled to a veteran's employment preference among the employment decisions relating to such a preference that may be appealed by filing a written complaint with the executive director of the state agency.

C.S.S.B. 805 amends the Labor Code to authorize a private employer to adopt a policy under which the employer may give a preference in employment decisions regarding hiring, promotion, or retention to a veteran, defined by the bill as an individual who has served on active duty in the armed forces of the United States and was honorably discharged from military service, over another qualified applicant or employee. The bill requires such a policy to be in writing and requires an employer to apply the policy reasonably and in good faith in employment decisions regarding hiring, promotion, or retention during a reduction in the employer's workforce. The bill authorizes an employer to require appropriate documentation from a veteran for the veteran to be eligible for the preference under such a policy. The bill establishes that granting a preference in accordance with a policy adopted under the bill's provisions does not violate statutory provisions relating to employment discrimination.

#### **EFFECTIVE DATE**

September 1, 2015.

#### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 805 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

##### SENATE ENGROSSED

SECTION 1. This Act may be cited as the Military Veterans' Full Employment Act.

SECTION 2. Chapter 657, Government Code, is amended.

**No equivalent provision.**

##### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Same as engrossed version.

SECTION 3. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 23 to read as follows:

CHAPTER 23. VOLUNTARY  
VETERAN'S EMPLOYMENT

PREFERENCE FOR PRIVATE EMPLOYERS

Sec. 23.001. DEFINITION. In this chapter, "veteran" means an individual who:

(1) has served on active duty in the armed forces of the United States; and

(2) was honorably discharged from military service.

Sec. 23.002. VOLUNTARY PREFERENCE POLICY. (a) A private employer may adopt a policy under which the employer may give a preference in employment decisions regarding hiring, promotion, or retention to a veteran over another qualified applicant or employee.

(b) A policy adopted under this section must be in writing.

Sec. 23.003. APPLICATION OF POLICY. (a) An employer shall apply any policy adopted under this chapter reasonably and in good faith in employment decisions regarding hiring, promotion, or retention during a reduction in the employer's workforce.

(b) An employer may require appropriate documentation from a veteran for the veteran to be eligible for the preference under a policy adopted under this chapter.

(c) Granting a preference in accordance with a policy adopted under this chapter does not violate Chapter 21.

SECTION 3. The changes in law made by this Act to Chapter 657, Government Code, apply only to an open position with a state agency for which the state agency begins accepting applications on or after the effective date of this Act. An open position with a state agency for which the state agency begins accepting applications before the effective date of this Act is governed by the law in effect on the date the state agency began accepting applications, and the former law is continued in effect for that purpose.

SECTION 4. (a) The changes in law made by this Act to Chapter 657, Government Code, apply only to an open position with a state agency for which the state agency begins accepting applications on or after the effective date of this Act. An open position with a state agency for which the state agency begins accepting applications before the effective date of this Act is governed by the law in effect on the date the state agency began accepting applications, and the former law is continued in effect for that purpose.

(b) Chapter 23, Labor Code, as added by this Act, applies only to an employment decision made on or after the effective date of this Act. An employment decision made before the effective date of this Act is governed by the law in effect on the date the decision was made, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect  
September 1, 2015.

SECTION 5. Same as engrossed version.