

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 306
Economic Matters

(Delegate Smith, *et al.*)

Finance

**Labor and Employment - Hiring and Promotion Preferences - Veterans and
Their Spouses**

This bill authorizes an employer to grant a hiring and promotion preference to an eligible veteran, the spouse of an eligible veteran who has a service-connected disability, or the surviving spouse of a deceased eligible veteran. An eligible veteran is a veteran of any branch of the U.S. Armed Forces who has received an honorable discharge or a certificate of satisfactory completion of military service, including the National Guard and the military reserves. The bill establishes that granting this preference does not violate any State or local Equal Employment Opportunity law.

Fiscal Summary

State Effect: None. The bill does not apply to State agencies. The Department of Labor, Licensing, and Regulation can implement and enforce the bill with existing resources. No effect on revenues.

Local Effect: None. The bill does not apply to local governments as employers.

Small Business Effect: Minimal. Small businesses may benefit from not violating any State or local Equal Employment Opportunity laws from granting hiring and promotion preferences to eligible veterans and spouses.

Analysis

Current Law: State law generally prohibits an employer with at least 15 employees from discharging, failing or refusing to hire, or otherwise discriminating against any individual with respect to the individual's compensation, terms, conditions, or privileges of

employment because of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability. The State and local governments are considered employers.

The federal Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. Most employers with at least 15 employees are covered by EEOC laws (20 employees in age discrimination cases). Most labor unions and employment agencies are also covered.

Antidiscrimination laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits. EEOC has the authority to investigate charges of discrimination against employers who are covered by the law. If EEOC finds that discrimination has occurred, it tries to settle the charge. If not successful, EEOC has the authority to file a lawsuit to protect the rights of individuals and the interests of the public but does not, however, file lawsuits in all cases in which there was a finding of discrimination.

Regarding State employees, a former prisoner of war, an eligible veteran, the spouse of an eligible veteran who has a service-connected disability, or the surviving spouse of a deceased eligible veteran receives a hiring preference for a position within the State Personnel Management System requiring a selection test.

Background: According to the U.S. Census, there were 385,000 veterans in Maryland in 2014, of whom 87.8% were males and 12.2% were females. There were 185,000 veterans between the ages of 18 and 64 in the civilian labor force, and the unemployment rate for veterans was 4.6%.

The federal government provides preference over a nonveteran in hiring and retention to an honorably discharged veteran who served on active duty during specified periods, served in a military campaign, has a service-connected disability, or is a Purple Heart recipient.

The National Conference of State Legislatures reports that all states grant some form of employment preference to veterans in the public sector, but private employers have been hesitant to favor veterans because of provisions of the Civil Rights Act of 1964 that prohibit discrimination in hiring. An exception to the law, however, allows preferences for veterans if they are authorized under federal, state, or local law. Since 2011, 27 states have enacted legislation allowing private employers to give a hiring preference to honorably discharged

veterans, with many of those laws also applying to spouses of disabled veterans and surviving spouses.

Additional Information

Prior Introductions: None.

Cross File: None designated; however, SB 245 (Senator Manno, *et al.* – Finance) is identical.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Veterans Affairs; Maryland Commission on Civil Rights; Military Department; National Conference of State Legislatures; U.S. Census Bureau; U.S. Equal Employment Opportunity Commission; U.S. Office of Personnel Management; Department of Legislative Services

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