Reserve Organization of America

Law Review 26132

TENNESSEE: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

Tennessee guarantees a first-round interview for state jobs to qualified veterans and certain spouses and surviving spouses, and gives them preference over equally qualified candidates. Eligible employees also get 60 months of seniority credit during layoffs.

Veterans' Preference:
Tennessee

The Federal Veterans' Preference Act (VPA)

The Federal Veterans' Preference Act (VPA), as explained in Law Review 0721 (May 2007), gives certain veterans an advantage in securing federal civil service jobs. The VPA does not apply to state and local government employment, but most states have their own veterans' preference laws that apply to the state and its political subdivisions (counties, cities, school districts, and other units of local government).

Tennessee State Employment Veterans Hiring Preference[1]:

§8-30-307. Invitations to interview candidates who are armed forces veterans – Spouse or surviving spouse of veteran

(a) When invitations to interview candidates are extended, whether for appointment or promotion, and the pool of candidates includes any person who has been honorably discharged from the

[1] 2023 Tennessee Code Title 8 Chapter 30 Part 3 §8-30-307, Invitation to interview candidates who are armed forces veterans – Spouse or surviving spouse of veteran. 2010 Tennessee Code Title 8 Chapter 30 Part 3 §8-30-306, Veterans' preference points. 2023 Tennessee Code Title 50 Chapter 1 Part 1 §50-1-107, Veterans preference.

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army, navy, air force, marine corps or coast guard or any member of the reserve components, as defined in 10 USC § 10101, who performs active federal service in the armed forces of the United States, these persons must be invited to interview.

(b) If a veteran is on the pool of candidates, and if the minimum qualifications and the skills, abilities, competencies and knowledge of the veteran and any another applicant being interviewed for the position are equal, preference shall be given to the veteran for the position.

(c) When invitations to interview candidates are extended, whether for appointment or promotion, the spouse or surviving spouse of a veteran must be invited to interview, if the spouse or surviving spouse is a qualified voter in Tennessee or has been a resident of this state for two (2) years preceding such person's application, and one (1) of the two (2) following circumstances exists:

(1) As a result of such military service, the veteran suffered a one hundred percent (100%) service-connected disability or is permanently and totally disabled; or

(2)

(A) The veteran died in the line of duty during such military service; and

(B) The surviving spouse has not remarried since the death of the veteran.

(d) Any appointing authority who passes over an eligible veteran and selects an eligible nonveteran shall file with the commissioner, within thirty (30) days, the reasons for so doing, which reasons will become a part of the veteran's record, but will not be made available to anyone other than the veteran, except in the discretion of the appointing authority.

§8-30-306. Veterans' preference points

(a)(1) Any person who has been honorably discharged from the army, navy, air force or marine corps, who served in the armed forces of the United States during the period of a war, the Korean War, the Vietnam Conflict, the Lebanon Expedition, the Grenada Expedition, the Panama Expedition or Operation Desert Storm, shall have five (5) points added to such person's earned ratings in examination for entrance to the career service; provided, that such person is a qualified voter in Tennessee or has been a resident of this state for two (2) years next preceding such person's application; and provided further, that for purposes of establishing preference points for the Lebanon Expedition, the Grenada Expedition or the Panama Expedition, points shall be awarded only to veterans who received the Armed Forces Expeditionary Medal.

(2) If such veteran is disabled as a result of such military service, such veteran shall have ten (10) points added to such veteran's rating, if the commissioner determines that such disability will not impair such veteran's fitness for the position sought.

(3) The spouse or surviving spouse of any one hundred percent (100%) service-connected disabled veteran whose disability resulted from such military service or the surviving spouse of any veteran who died in the line of duty during such military service shall have ten (10) points added to such person's rating; provided, that such surviving spouse shall not have remarried since the death of such person's veteran spouse.

(4) The spouse or surviving spouse of any permanently and totally disabled veteran whose disability resulted from military service, or veteran who died in the line of duty, during a period other than a period of war, the Korean War, the Vietnam Conflict, the Lebanon Expedition, the Grenada Expedition, the Panama Expedition or Operation Desert Storm shall have five (5) points added to such spouse or surviving spouse's rating; provided, that such surviving spouse shall have not remarried since the death of the veteran; provided further, that, for purposes of establishing preference points for the Lebanon Expedition, the Grenada Expedition or the

Panama Expedition, points shall be awarded only to veterans who received the Armed Forces Expeditionary Medal.

(b) In entering upon registers the names of preference claimants entitled to additional points, they will take the place to which their ratings entitled them on the register with nonveterans, that is, the earned ratings augmented by the points to which they are entitled, and will be certified when their ratings are reached. The name of a veteran, with the augmented rating, will be entered ahead of the name of a nonveteran when their ratings are the same.

(c) For purposes of establishing preference points, the following dates shall be equated to period of war with respect to the Korean War: June 27, 1950, to January 31, 1955.

(d)(1) The preference points in this section shall apply to any member of the reserve components as defined in 10 U.S.C. § 261(a) who performs active federal service in the armed forces of the United States during the periods specified in subsection (a).

(2) The provisions of subdivisions (a)(3) and (4) relative to a spouse or surviving spouse of a disabled veteran shall also apply to a spouse or surviving spouse of any member of the reserve components as provided in subdivision (d)(1).

§50-1-107. Veterans preference

(a) A private employer may adopt an employment policy that gives preference in hiring to:

(1) An honorably discharged veteran;

(2) The spouse of a veteran with a service-connected disability;

(3) The unremarried widow or widower of a veteran who died of a service-connected disability; or

(4) The unremarried widow or widower of a member of the United States armed forces who died in the line of duty.

(b) A private employer adopting a veterans preference shall have the policy in writing and may require submission of a certificate of release or discharge from active duty, department of defense form 214 (DD 214), as proof of eligibility for the veterans preference employment policy.

(c) A policy adopted pursuant to subsection (a) must be applied uniformly to employment decisions regarding hiring and promotion.

(d) The preferences authorized by this section are not considered violations of any state or local equal employment opportunity law.

(e) Nothing in this section requires a private employer to provide a preference in hiring to any of the persons listed in subsection (a).

Tennessee offers Veterans hiring preferences for state employment and promotions. Eligible Veterans and Surviving Spouses receive a first-round interview guarantee. Applicants must meet the minimum qualifications. If an eligible Veteran or Surviving Spouse is added to the list of eligible candidates after the first round, they receive preference in hiring over other candidates with equal qualifications who are not eligible for preference.

Eligible Veterans and Spouses include:

- Veterans who served on federal active duty in the U.S. Armed Forces and received an honorable discharge

- Spouses of Veterans with a 100% service-connected disability or permanent and total disability

- Unremarried Surviving Spouses of Service members who died in the line of duty

- Spouses or Surviving Spouses must have been registered voters in Tennessee for two years before applying

If an eligible Veteran or Surviving Spouse is not hired, the hiring authority must provide the reason within 30 days. Applicants must provide proof of eligibility at the time of application.

Additionally, employees eligible for Veterans preference receive 60 months of service credit added to their total state service when determining seniority during a layoff or reduction in force.

Q: The great majority of veterans are men. Does a veterans' preference law discriminate against women and violate the Equal Protection Clause of the Constitution's Fourteenth Amendment?

A: In 1979, the Supreme Court considered and rejected that argument, by a 7-2 vote. Even if the effect of a veterans' preference law is to benefit many more men than women, the purpose of the law is to benefit veterans, not to discriminate against women.[2]

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[2] *See Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 276 (1979). *See generally* Law Review 24055 (December 2024).
[3] *See* https://crsreports.congress.gov/product/pdf/IF/IF10540/. These are the authorized figures as of 9/30/2022.

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About the Author

Deng received his Juris Doctor from Baylor University School of Law and received his Bachelor of Science in Sociology, his Bachelor of Science in Criminal Justice, and his minor in Political Science, from Abilene Christian University. As a division-1 student-athlete, Deng played cornerback for the Abilene Christian University Football Team from 2015-19, and Pole Vaulted with the Abilene Christian University Track and Field Team in 2015.

[4] Congress recently established the United States Space Force as the eighth uniformed service.
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