

MINUTES OF THE HOUSE COMMITTEE ON VETERANS, MILITARY AND HOMELAND  
SECURITY

The meeting was called to order by Chairman Don Myers at 1:30 P.M. on March 21, 2007 in Room 241-N of the Capitol.

All members were present except:

Representative Bob Bethell- excused  
Representative Marti Crow- excused

Committee staff present:

Art Griggs, Revisor of Statutes Office  
Athena Andaya, Kansas Legislative Research  
Betty Caruthers, Committee Assistant

Conferees appearing before the committee:

Mark Tomb, League of Kansas Municipalities  
George Webb, Kansas Commission on Veterans' Affairs  
Wayne Bolig, Kansas Commission on Veterans' Affairs

Others attending:

See attached list.

Chairman Myers called the meeting to order and stated that the Committee would continue with the working process of the **Substitute for HB 2562 - Veterans preference in employment.**

An informational written only piece of testimony was distributed to the Committee from Lt. Col. Craig Beardsley (Ret.), President of the National Guard Association of Kansas. (Attachment 1)

Chairman Myers recognized Revisor, Art Griggs who reviewed the changes from yesterday now appearing on the new 3/21 11AM version of the **Substitute for HB 2562.** (Attachment 2)

Chairman Myers pointed out an additional piece of written information provided to the Committee from Ed Klumpp. (Attachment 3)

Chairman Myers recognized Mark Tomb who spoke in favor of veterans preference yet opposed some things in this Substitute bill. He stated that page 3 letter e was okay for the State but could be a burden for smaller cities and their hiring process. There was also concern noted regarding the 30 days notice and he suggested removing sections e and f.

Chairman Myers noted that there are 627 cities within the State of Kansas with 510 of those considered 3<sup>rd</sup> class having fewer than 2,000 people, 92 of them considered 2<sup>nd</sup> class having between 2,000 and 15,000, and 25 of them considered 1st class having over 15,000. It was noted that 528 of the 627 cities are members of the League of Kansas Municipalities.

Moved by Representative Goyle, seconded by Representative Johnson, page 3 line 18 after job openings add 'comma (,) if any(,) comma' and after employment add 'comma (,) if any (,)comma.'

Motion carried.

Moved by Representative Goyle, seconded by Representative Goico page 3 line 24 to delete the words 'city and county.'

Motion withdrawn.

Representative Goico moved, seconded by Representative Ruff page 2 line 1 after the word with, to remove 'the rank of major or naval lieutenant commander or above, or'.

Motion carried.

## CONTINUATION SHEET

MINUTES OF THE House Committee on Veterans, Military and Homeland Security at 1:30 P.M. on March 21, 2007 in Room 241-N of the Capitol.

Moved by Representative Goyle, seconded by Representative Ruff to amend page 3 section e, lines 18 thru 29 to read as follows:

All notices of job openings, if any, and all applications for employment, if any, by the state and any city or county in this state shall state that the job is subject to a veteran's preference, how the preference works and how veterans may take advantage of the preference and at least 30 days prior to announcing the intent to fill a position, a written statement of: (1) The minimum qualifications for such position; (2) any preferred qualifications of such position; (3) performance standards for the position; and (4) the process that will be used for selection. A veteran desiring to use veteran's preference shall provide the hiring authority with a copy of the veteran's DD214 form.

Motion carried.

Moved by Representative Ruff, seconded by Representative Goico to keep the definition of competent but add an additional paragraph on page 2 following line 8 to read as follows:

The basis for such determination shall include experience, training, education, licensure, certification, and/or other factors determined by the decision making authority as appropriate to determine the applicant's overall qualifications and ability to successfully meet the performance standards of the position. The decision making authority shall document such factors prior to the initiation of the selection process.

Motion carried.

Chairman Myers recognized Representative Lukert to review his displeasure as to part of the bill. Representative Lukert reiterated his uneasiness with inclusion of the veterans preference regarding promotions.

Representative Proehl stated that throughout all of this he wanted to be certain the veterans were not being hurt or a disservice being done to them.

Chairman Myers asked George Webb to speak on behalf of the Kansas Commission on Veterans' Affairs as to how he felt thus far about the bill. Mr. Webb suggested that the bill state armed forces rather than armed services and he requested not to eliminate retired.

Mr. Webb also suggested using 'retired from the military with the exception of those military personnel who have been retired for medical reasons due to wounds received in combat.'

Representative Ruff moved to accept the wording 'retired from the military with the exception of those military personnel who have been retired for medical reasons due to wounds received in combat.'  
Representative Craft seconded.

Motion carried.

Chairman Myers recognized Wayne Bolig who stated that the veterans are pleased that the bill seems to be addressing many of their concerns and he is very appreciative of the opportunities he has had to participate.

Moved by Representative Ruff, seconded by Representative Wilk that on page 2 line 21, strike 'every public department and upon all public works of' and in line 22 strike the second 'of' and replace it with the word 'in.'

Motion carried.

Moved by Representative Goico, seconded by Representative Lukert to replace armed services with armed forces and add coast guard after force on page 2 line 11.

CONTINUATION SHEET

MINUTES OF THE House Committee on Veterans, Military and Homeland Security at 1:30 P.M. on March 21, 2007 in Room 241-N of the Capitol.

Motion carried.

Revisor Art Griggs presented a "Revisor's amendment" on page 3 line 33 changing the word original to initial then striking the two words 'any initial' and replacing them with 'the first.' Moved by Representative Goico, seconded by Representative Spalding to accept the noted changes.

Motion carried.

Moved by Representative Colloton, seconded by Representative Craft on page 3 line 26 to drop the word minimum.

Motion carried.

Representative Goico moved to pass **Substitute for HB 2562** as amended favorably out of Committee.

Motion withdrawn.

Moved by Representative Goyle, seconded by Representative Colloton on page 3 line 30 strike the words 'human resource or' and in line 31 after the word county add the words ' human resource department, if any, '.

Motion carried.

Representative Goico moved to pass **Substitute for HB 2562** as amended favorably out of Committee. Seconded by Representative Spalding.

Motion carried.

Meeting was adjourned at 3:30.



**Testimony to the House Special Committee on Veterans Affairs**  
**By the National Guard Association of Kansas, Inc. (NGAKS) on House Bill 2562**  
**March 20, 2007**

Mr. Chairman and members of the committee. I am LtCol Craig Beardsley (Ret.) the President of the National Guard Association of Kansas, Inc. or NGAKS. Thank you for the opportunity to submit written testimony on **HB 2562**.

The NGAKS is a membership association made up of Army and Air National Guard officers who are in or are retired from the Kansas National Guard--both Army National Guard and Air National Guard.

There are currently more than **8,000 Kansas National Guard members** in the Army and Air National Guard, with nearly 1,100 who are currently deployed to Iraq, Afghanistan, and other parts of the world.

House Bill 2562 would expand veterans' preference in public employment venues in Kansas to include veterans of not only World War II, Korea and Vietnam, but our more recent military actions in Iraq, Afghanistan, Operation Desert Shield/Storm, and other theatres of operation. The National Guard has been and continues to be a key performer in all military operations around the world today. We believe they are deserving of veterans' preference in employment.

We applaud the efforts of HB 2562 to recognize veterans who have been deployed in support of these operations—the vast majority of whom have been our own National Guard members, such as those the NGAKS represents.

**The NGAKS would like to request the committees support in passing HB 2562, and in recognizing that there are many veterans who have served since the Vietnam era, and allowing them the same employment preference as their predecessors.**

Thank you for your consideration of this request. Please feel free to contact me as listed below. Thank you for your continued support of the Kansas National Guard.

If you have questions or require further information, please contact  
Michele Henry, Executive Director, NGAKS at (785) 862-1066 or [NGAKS@aol.com](mailto:NGAKS@aol.com) , or Craig  
Beardsley, [cabeards@ksu.edu](mailto:cabeards@ksu.edu)  
Check out our web site at [www.ngaks.org](http://www.ngaks.org)

## PROPOSED Substitute for HOUSE BILL NO. 2562

By Committee on Veterans, Military and Homeland Security

1 AN ACT relating to veterans; concerning veterans preference;  
2 amending K.S.A. 73-201 and repealing the existing section.

3 Be it enacted by the Legislature of the State of Kansas:

4 Section 1. K.S.A. 73-201 is hereby amended to read as  
5 follows: 73-201. (a) As used in this act: (1) "Veteran" means:

6 (A) Any person who entered the armed services before October  
7 15, 1976, and separated from the armed services under honorable  
8 conditions, if such person served: (i) On active duty during any  
9 war (the official dates for war service are April 6, 1917 through  
10 July 2, 1921, and December 7, 1941 through April 28, 1952); (ii)  
11 during the period April 28, 1952 through July 1, 1955; (iii) in  
12 any campaign or expedition for which a campaign badge or service  
13 medal has been authorized; or (iv) for more than 180 consecutive  
14 days since January 31, 1955, but before October 15, 1976,  
15 excluding an initial period of active duty for training under the  
16 "six-month" reserve or national guard program;

17 (B) any person who entered the armed services on or after  
18 October 15, 1976, and separated from the armed services under  
19 honorable conditions, if such person was awarded a service medal  
20 or campaign badge;

21 (C) any person who separated from the armed services under  
22 honorable conditions and has a disability certified by the United  
23 States department of veterans affairs as being service connected,  
24 has been issued the purple heart by the United States government  
25 or has been released from active service with a service-connected  
26 disability;

27 (D) the spouse of a veteran who has a 100% service connected  
28 disability as determined by the United States department of  
29 veteran affairs;

30 (E) the unremarried spouse of a veteran who died while, and  
31 as a result of, serving in military service; and

32 (F) the spouse of a prisoner of war, as defined by K.S.A.  
33 75-4364, and amendments thereto.

34 Notwithstanding the foregoing, the term "veteran" shall not

1 apply to any person who retired from the military with the rank  
2 of major or naval lieutenant commander or above, or the pay grade  
3 of 04 or above.

4 (2) "Competent" means a good faith determination that the  
5 person is likely to successfully meet the performance standards  
6 of the position based on what a reasonable person knowledgeable  
7 in the operation of the position would conclude from all  
8 information available at the time the decision is made.

9 (b) In grateful recognition of the services, sacrifices and  
10 sufferings of ~~persons~~ veterans who served in the army, navy, air  
11 force or marine corps of the United States in world war I and  
12 world war II, and of persons who have served with the armed  
13 forces of the United States during the military, naval and air  
14 operations in Korea, Viet Nam, Iraq, Afghanistan or other places  
15 under the flags of the United States and the United Nations or  
16 under the flag of the United States alone, and have been  
17 honorably discharged therefrom, they the provisions of this  
18 section are enacted.

19 (c) Veterans shall be preferred for ~~appointments---and~~  
20 ~~employed-to-fill-positions~~ initial employment and first promotion  
21 in every public department and upon all public works of the state  
22 of Kansas, and of the counties and cities of this state, if  
23 competent to perform such services, ~~and-the-person~~. Any veteran  
24 thus preferred shall not be disqualified from holding any  
25 position in said service on account of his the veteran's age or  
26 by reason of any physical or mental disability, provided as long  
27 as such age or disability does not render him the veteran  
28 incompetent to perform the duties of the position applied for,  
29 and. When any ~~such-ex-soldier, sailor, airman or marine~~ veteran  
30 shall apply for appointment to any such position, place, or  
31 employment, the officer, board or person whose duty it is or may  
32 be to appoint a person to fill such place shall, if the applicant  
33 be a ~~man-or-woman~~ veteran of good reputation, and can competently  
34 perform the duties of the position applied for by him-or-her the  
35 veteran, appoint---said---ex-soldier, sailor, airman---or---marine

1 consider the veteran for appointment to such position, place, or  
2 employment:--Provided, That, Within 30 days of filling a position,  
3 eligible veterans who have applied and are not hired shall be  
4 notified by certified mail or personal service that they are not  
5 being hired. Such notice also shall advise the veteran of any  
6 administrative appeal available.

7 (d) The provisions of this act shall not be applicable to  
8 any persons classed as conscientious objectors. The provisions of  
9 this act shall not be controlling over the provisions of any  
10 statute, county resolution or city ordinance relating to  
11 retirement, or termination on the basis of age, of employees of  
12 the state or any county or city. Whenever under any statute,  
13 county resolution or city ordinance retirement, or termination on  
14 the basis of age, of any employee is required at a certain age,  
15 or is optional with the employer at a certain age, such  
16 provisions of such statute, resolution or ordinance shall be  
17 controlling and shall not be limited by this section.

18 (e) All notices of job openings and all applications for  
19 employment by the state and any city or county in this state  
20 shall state that the job is subject to a veteran's preference,  
21 how the preference works and how veterans may take advantage of  
22 the preference. A veteran desiring to use veteran's preference  
23 shall provide the hiring authority with a copy of the veteran's  
24 DD214 form. Each state agency, city and county shall have in  
25 place at least 30 days prior to announcing the intent to fill a  
26 position, a written statement of: (1) The minimum qualifications  
27 for such position; (2) any preferred qualifications of such  
28 position; (3) performance standards for the position; and (4) the  
29 process that will be used for selection.

30 (f) Every human resource or employment center of the state  
31 and any city or county shall openly display documents that  
32 indicate that veterans are eligible for a preference in their  
33 original employment and any initial promotion within the  
34 employments of the governmental entity.

35 (g) Any veteran who alleges that a state agency, city or



1 county has not provided the veterans preference as required by  
2 this act, after exhausting any available administrative remedy,  
3 may bring an action in the district court. If the court or jury  
4 finds that the state agency, city or county has failed to provide  
5 the veterans preference, the veteran shall be entitled to  
6 reasonable attorney fees.

7 New Sec. 2. (a) The provisions of section 1, and amendments  
8 thereto, shall not apply to the following:

9 (1) An office filled by election;

10 (2) positions which are filled by officers elected by  
11 popular vote or persons appointed to fill vacancies in such  
12 offices and the personal secretary of each such officer, members  
13 of boards and commissions, persons employed on a temporary basis  
14 without benefits, heads of departments, positions that require  
15 licensure as a physician, licensure as an osteopathic physician,  
16 licensure as a chiropractic physician and positions that require  
17 that the employee be admitted to practice law in Kansas;

18 (3) a key employee as defined in subsection (b);

19 (4) a job held by a patient, inmate or student in or  
20 enrolled at a state institution; and

21 (5) temporary or casual employment positions.

22 (b) As used in this section, "key employee" means an  
23 individual specifically hired for an at will position or for a  
24 non-classified position, such as a position as a private  
25 secretary or deputy of an official or department who holds a  
26 confidential relationship to the appointing or employing officer  
27 and positions in the unclassified service of the state of Kansas  
28 as enumerated in K.S.A. 75-2935, and amendments thereto or other  
29 Kansas statutes.

30 New Sec. 3. To the extent that this act conflicts with  
31 federal law or a limitation provided by a federal grant to a  
32 public entity, this act shall be construed to operate in harmony  
33 with the federal law or limitation of the federal grant.

34 New Sec. 4. Prior to the beginning of the 2010 regular  
35 legislative session, the division of post audit shall conduct an

1     audit of the Kansas veterans preference laws. The audit shall be  
2     in accordance with article 11 of chapter 46 of the Kansas  
3     Statutes Annotated, and amendments thereto. The audit report  
4     shall be submitted to the legislature at the commencement of the  
5     regular session of the legislature in 2010.

6             Sec. 5. K.S.A. 73-201 is hereby repealed.

7             Sec. 6. This act shall take effect and be in force from and  
8     after its publication in the statute book.

Thoughts and suggestions on the proposed Substitute HB2562 as amended by the House Veteran, Military, and Homeland Security Committee on 3/20/07.

Presented by Ed Klumpp, Kansas Association of Chiefs of Police

1. If the intent is to include the coast guard veterans in this bill, the word Navy added to page 2, line 3 should be deleted. Consideration should also be given to adding a definition for armed services. For example: Armed Forces as used in this section shall include the United States Army, Navy, Air Force, Marines, or Coast Guard. The appropriate place for it is probably as (a)(3) after page 2 line 8. If it is not the intent to include the Coast Guard, then no change on line 3 is needed but a definition as above should be considered without the Coast Guard included. PURPOSE: Clarity of who is service eligible.
2. After further consideration, section (e) might be too much of a burden on the very small cities. Perhaps these written documents are best left to the discretion of the city or county. This becomes less important if the additional language defining "competent" is included. If the decision is to leave this section in the bill, we strongly recommend deleting the words "at least 30 days" from page 3 line 18. PURPOSE: Minimize any harmful unintended impact on the cities and counties with very few employees where less formal policies exist and where often times employees perform multiple job duties.
3. We believe the attorney fee provision can be a financial back breaker for small counties and cities. Courts can generally make such determinations without the language added to the bill. The language of the bill makes it more likely the court would order a city or county to pay the applicants legal fees even if there was good intent in a gray area or area where the intent may not be as clear as we believe. We suggest striking on page 3 all of line 31 after the period and all of lines 32-34. If the decision is made not to strike it, consider replacing the words "provide the" on page 3 lines 32 and 33 with "use good faith in determining the application of." PURPOSE: The government body can be held accountable in court without this language. The alternative of language change will define the level of deviation necessary for the court to award attorney fees.
4. We suggest deleting the words "without benefits" on page 4, line 7. PURPOSE: This language could unintentionally encourage cities and counties to hire more temporary workers without any benefits where they might otherwise include limited benefits.
5. Consider modifying page 4 lines 15-21 to read: "As used in this section, "key employee" shall mean an individual specifically hired for a city or county at-will or department/agency head position, or an individual serving as the immediate subordinate, secretary, or administrative assistant of a person holding such position; or for a state non-classified position, such as a position as a private secretary or deputy of an official, department, or agency who holds a confidential relationship to the appointing or employing officer; and positions in the unclassified service of the state of Kansas as enumerated in KSA 75-2935, and amendments thereto." PURPOSE: Adds clarity for what I understood as the intent stated in the discussions--to enable an agency/department head or higher authority to have immediate staff compatible to good teamwork.