

SENATE BILL No. 166

By Committee on Commerce

2-3

1 AN ACT concerning state employees; enacting the fostering competitive
2 career opportunities act; removing postsecondary degree requirements
3 from state employment considerations; amending K.S.A. 75-2929d and
4 repealing the existing section.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) The provisions of sections 1 through 5, and
8 amendments thereto, shall be known and may be cited as the fostering
9 competitive career opportunities act.

10 (b) The fostering competitive career opportunities act removes
11 unnecessary postsecondary degree requirements from hiring
12 considerations for state employment positions. Many such positions have
13 experienced a phenomenon called degree inflation as more employers rely
14 on a postsecondary degree as an indicator of career readiness, instead of
15 using relevant work experience. These requirements limit opportunities for
16 hard-working Americans and encourage unnecessary student debt. This act
17 does not apply to positions for which a postsecondary degree is a
18 justifiable necessity.

19 New Sec. 2. As used in sections 1 through 5, and amendments
20 thereto:

21 (a) "Applicant" means any individual seeking gainful employment
22 from a state employer;

23 (b) "baseline requirement" means the minimum skills, prior training
24 or prior experience necessary to perform the primary duties of a position;

25 (c) "postsecondary degree" means an associate's, bachelor's or
26 graduate degree from an accredited postsecondary educational institution;

27 (d) "direct experience" means any verifiable, previous work
28 experience during which:

29 (1) The applicant's primary duties were consistent with the primary
30 duties of the position currently sought; or

31 (2) the skills necessary to perform the applicant's primary duties are
32 transferable to the position currently sought;

33 (e) "hiring consideration" means:

34 (1) A decision to move an applicant on to a subsequent round in the
35 hiring process;

36 (2) a decision to include the applicant on a list of applicants for

- 1 consideration by another member of the employer's team;
- 2 (3) a decision to offer an applicant an interview for a position;
- 3 (4) a decision to promote, retain, increase compensation or provide
- 4 some other benefit to an employee of the state employer;
- 5 (5) an interview conducted in good faith between the state employer
- 6 and the applicant; or
- 7 (6) a decision to make a final offer of employment; and
- 8 (f) "state employer" means any state office or officer, department,
- 9 board, commission, institution, bureau, society or any agency, division or
- 10 unit within any state office, department, board, commission or other state
- 11 authority. "State employer" does not include any state office or officer,
- 12 department, board, commission, institution, bureau or society in the
- 13 legislative or judicial branches of government.

14 New Sec. 3. (a) For all hiring considerations, a state employer shall

15 not make any decision based solely on an applicant's lack of a

16 postsecondary degree.

17 (b) State employers shall determine the baseline requirements for

18 applicants for each job posting. Baseline requirements may include prior

19 direct experience, specific certifications or specific courses of instruction,

20 but shall not include a postsecondary degree requirement except as

21 provided in subsection (c). In all hiring considerations, no state employer

22 shall impose any additional requirements on applicants for a job posting

23 that exceed the baseline requirements.

24 (c) State employers may require a postsecondary degree for a position

25 if the state employer demonstrates that such degree is necessary for the

26 position based on specific skills required for the position that can only be

27 obtained through the attainment of a degree. For any job posting that

28 requires a postsecondary degree, a state employer shall include

29 information in such job posting substantiating the necessity of the specific

30 postsecondary degree required. Such information shall demonstrate that

31 the postsecondary degree is the only possible measure to determine if an

32 applicant possesses the specific skills required for the position or that the

33 position requires accreditation or licensure that is only available to holders

34 of specific postsecondary degrees.

35 (d) Each job posting shall include any tests, training, apprenticeships

36 or other forms of assessment that may validate the competencies of a

37 candidate for such position.

38 (e) For any position in which direct experience may be considered in

39 lieu of a postsecondary degree, the state employer shall not require more

40 years of direct experience than:

- 41 (1) Two years for an associate's degree;
- 42 (2) four years for a bachelor's degree;
- 43 (3) six years for a master's degree;

1 (4) seven years for a professional degree; or

2 (5) nine years for a doctoral degree.

3 (f) Nothing in this section shall apply to any position that is filled by
4 political appointment.

5 New Sec. 4. Any state employer that issues a request for proposal or
6 other solicitation for any goods or services shall not require any minimum
7 experience or postsecondary educational attainment for any contractor
8 personnel as a prerequisite for consideration for an award of a contract
9 unless the state employer includes in the request for proposal or
10 solicitation a statement describing why the needs of the state employer
11 cannot be met without such requirement and how such requirement
12 ensures that such needs will be met.

13 New Sec. 5. (a) Any applicant who receives an adverse hiring
14 consideration and who reasonably believes such decision was based solely
15 on the applicant's lack of a postsecondary degree may appeal such decision
16 to the state civil service board. Such appeals shall be submitted in such
17 form and manner as prescribed by the state civil service board. All appeals
18 shall be considered in accordance with K.S.A. 75-2929a et seq., and
19 amendments thereto.

20 (b) Any person may report to the state civil service board any job
21 postings by a state employer that require a postsecondary degree but fail to
22 include the information required under section 3(c), and amendments
23 thereto.

24 (c) Upon a finding that a state employer has violated the provisions of
25 section 3, and amendments thereto, the state civil service board shall
26 require the state employer to reopen the process for the hiring
27 consideration in question, require the state employer to modify the job
28 posting, if necessary, and take such other corrective action as necessary to
29 comply with the provisions of sections 1 through 5, and amendments
30 thereto.

31 (d) All administrative proceedings pursuant to this section shall be
32 conducted in accordance with the provisions of the Kansas administrative
33 procedure act and the Kansas judicial review act.

34 Sec. 6. K.S.A. 75-2929d is hereby amended to read as follows: 75-
35 2929d. (a) The state civil service board shall hear appeals taken to it
36 pursuant to:

37 (1) K.S.A. 75-2940, 75-2949 and 75-3747, and amendments thereto,
38 concerning demotion, dismissal or suspension of a permanent employee in
39 the classified service, or concerning refusal to examine an applicant or to
40 certify a person as eligible for a job class, ~~and;~~

41 (2) K.S.A. 75-2973, and amendments thereto, concerning disciplinary
42 action in violation of that statute; *and*

43 (3) *section 5, and amendments thereto, concerning violations of the*

1 *fostering competitive career opportunities act.*

2 (b) When an appeal is taken to the board, the board shall establish a
3 time and a place for the hearing which shall be held within 45 days after
4 receipt of request for the appeal. The board shall notify the person bringing
5 the appeal and the appointing authority or other person whose action is
6 being reviewed of the time and the place of the hearing at least 14 days
7 prior to such hearing. Each party at the hearing shall have the right to be
8 represented by a person of the party's own choice. Hearings shall be
9 conducted in accordance with the provisions of the Kansas administrative
10 procedure act. For purposes of the administrative procedure act, the state
11 civil service board shall be deemed the agency head. The board may
12 affirm, modify or reverse an agency action and order any other action it
13 deems appropriate.

14 (c) The board, or the director of personnel services when authorized
15 by majority vote of the board, may depose witnesses. Either party to a
16 hearing may depose witnesses in accordance with the Kansas
17 administrative procedure act. If books and papers are required to be
18 produced in advance of a hearing date, the person or agency producing the
19 books and papers shall be entitled to receive reasonable compensation to
20 recover all costs of such production from the person or agency for which
21 they are produced. The board, any presiding officer or the director may
22 examine such public records as may be required in relation to any matter
23 which the board has authority to investigate.

24 (d) Each person not in the classified or unclassified service who
25 appears before the board or the director by order shall receive for such
26 person's attendance the fees and mileage provided for witnesses in civil
27 actions in the district court. Such fees and mileage shall be audited and
28 paid by the state upon presentation of proper vouchers. Each witness
29 subpoenaed at the request of parties other than the board or the director
30 shall be entitled to compensation from the state for attendance or travel
31 only if the board certifies that the testimony of such witness was relevant
32 and material to the matter investigated or, if such witness is not called to
33 testify, the board determines and certifies that such compensation should
34 be paid.

35 Sec. 7. K.S.A. 75-2929d is hereby repealed.

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