

{As Amended by Senate Committee of the Whole}

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{As Amended by House Committee of the Whole}

Session of 2015

HOUSE BILL No. 2154

By Committee on Veterans, Military and Homeland Security

1-28

1 ~~AN ACT concerning employment; relating to private sector employers;~~
2 ~~pertaining to certain veterans military matters; amending K.S.A. 48-~~
3 ~~517 and K.S.A. 2014 Supp. 76-729 and repealing the existing~~
4 ~~sections.~~
5

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

7 Section 1. (a) As used in this section, "veteran" shall have the
8 meaning ascribed to it in K.S.A. 73-201, and amendments thereto.

9 (b) There is hereby established a permissive preference in private
10 employment for veterans.

11 (c) A private employer may adopt an employment policy that gives
12 preference in hiring to a veteran, provided that the veteran meets the
13 requirements of the vacant position.

14 (d) Such employment policy shall be:

15 (1) In writing; and

16 (2) applied consistently to all decisions regarding initial employment.

17 (e) The veteran shall submit a form DD-214 of the veteran **{proof of**
18 **such veteran's military service and honorable discharge or general**
19 **discharge under honorable conditions}** to a private employer with such
20 veterans preference employment policy to establish eligibility for the
21 preference.

22 *Sec. 2. K.S.A. 48-517 is hereby amended to read as follows: 48-517.*

23 *(a) Any person employed in the state of Kansas who is called or ordered*
24 *to state active duty by the this state, or any other state, whether such*
25 *person is a member of the Kansas army national guard, Kansas air*
26 *national guard, the Kansas state guard or other military force of this*
27 *state, or any other state, and who gave notice thereof to the person's*
28 *employer, upon satisfactory performance of and release and return from*
29 *such military duty or recovery from disease or injury resulting therefrom*
30 *from such military duty, under honorable conditions, shall be reinstated*
31 *in or restored to the position of employment, except a temporary*
32 *position, which the person held at the time the person was called to state*

1 *active duty. The person shall report to the person's place of employment*
2 *within 72 hours after release from duty or recovery from disease or*
3 *injury resulting ~~therefrom~~ from such military duty, as the case may be,*
4 *and the person's employer or the employer's successor in interest,*
5 *whether an agency of the state, a political subdivision of the state or a*
6 *private employer, shall reinstate or restore the person in the same*
7 *position which the person left at the time of the person's call to duty at*
8 *no less compensation than that which the person was receiving at the*
9 *time of the person's call to duty or to a position of like seniority, status*
10 *and pay. However, if the person is not qualified to perform the duties of*
11 *the same position by reason of disability sustained during the person's*
12 *call to duty but is qualified to perform another position in the employ of*
13 *the employer or the employer's successor, the employer or the employer's*
14 *successor in interest shall employ such person in another position, the*
15 *duties of which the person is qualified to perform, that will provide like*
16 *seniority, status and pay or the nearest approximation thereof consistent*
17 *with the circumstances of the case. Any person called to state active duty*
18 *shall receive, upon release ~~under honorable conditions~~ from state active*
19 *duty, ~~documentation of honorable~~ such person's service to ~~the~~ this state or*
20 *any other state, as provided by the adjutant general in a memorandum*
21 *certified by such person's commanding officer.*

22 *(b) Any person who is restored to the person's position in*
23 *accordance with the provisions of subsection (a) shall be considered as*
24 *having been on temporary leave of absence during the period for which*
25 *the person is called to state active duty, shall be restored without loss of*
26 *seniority, shall be entitled to participate in any benefits offered by the*
27 *employer pursuant to established rules and practices relating to*
28 *employees on leave of absence in effect with the employer at the time the*
29 *person was called to duty as provided ~~herein~~ in this section and shall not*
30 *be discharged from the person's position without cause within one year*
31 *after restoration to the position.*

32 *(c) It is understood and declared to be the intent of this section that*
33 *any person who is restored to a position in accordance with the*
34 *provisions of subsections (a) and (b) shall be restored in such manner as*
35 *to give the person such status in the person's employment as the person*
36 *would have enjoyed if the person had continued in such employment*
37 *continuously from the time of the person's answering the call to state*
38 *active duty until the time of the person's restoration to such employment.*

39 *(d) An application on behalf of a person claiming to be entitled to*
40 *any right or benefit under this section may be made to the attorney*
41 *general. If the attorney general is reasonably satisfied that the person is*
42 *entitled to the right or benefit sought, the attorney general may appear*
43 *on behalf of and act as attorney for the person on whose behalf the*

1 *application is submitted and may commence an action in the district*
2 *court of the county for appropriate relief for the person. The district*
3 *court of the county where the employer of a person claiming a right or*
4 *benefit under this section, or the successor in interest to such employer,*
5 *maintains a place of business shall have jurisdiction of any action filed*
6 *by or on behalf of such person. If the court determines that the employer*
7 *or the employer's successor in interest has failed to comply with the*
8 *provisions of this section, the court may order the employer or the*
9 *employer's successor in interest to: (1) Comply with the provisions of*
10 *this section; and (2) compensate the person for any loss of wages or*
11 *benefits suffered by reason of the failure of the employer or employer's*
12 *successor in interest to comply with the provisions of this section. In*
13 *addition, the court may order the employer or the employer's successor*
14 *in interest to pay the person an additional amount equal to the amount*
15 *authorized by subsection (d)(2) if the court determines that the employer*
16 *or the employer's successor in interest willfully failed to comply with the*
17 *provisions of this section. No fees or court costs shall be taxed against*
18 *any person commencing an action under this subsection. The employer*
19 *or the employer's successor in interest shall be deemed the only*
20 *necessary party defendant to any such action.*

21 *(e) In any case in which two or more persons who are entitled to be*
22 *restored to a position under the provisions of this section or of any law*
23 *relating to similar reemployment or reinstatement benefits left the same*
24 *position in order to enter the state this state's or any other state's call to*
25 *active duty, the person who left the position first shall have the prior*
26 *right to be restored thereto, without prejudice to the reemployment rights*
27 *of the other person or persons to be restored.*

28 *(f) Upon request, the adjutant general shall provide technical*
29 *assistance to any person claiming to be entitled to any right or benefit*
30 *under this section during the course of an investigation subsequent to a*
31 *claim as provided in subsection (d) and, when appropriate, to the*
32 *employer or employer's successor in interest. The adjutant general shall*
33 *place an investigating officer on state active duty orders to investigate the*
34 *person's claim and attempt to resolve the claim by making reasonable*
35 *efforts to ensure that the employer or employer's successor in interest*
36 *complies with the provisions of this section. If such efforts are not*
37 *successful, the adjutant general shall notify the person of the results of*
38 *the investigation and the person's entitlement to proceed as provided by*
39 *subsection (d).*

40 *(g) (1) An employer or an employer's successor in interest shall not*
41 *be required to reemploy a person under this section if:*

42 *(A) The circumstances of the employer or the employer's successor*
43 *in interest have so changed as to make reemployment of the person*

1 *impossible or unreasonable;*

2 *(B) reemployment of the person would impose an undue hardship*
3 *on the employer or the employer's successor in interest; or*

4 *(C) the employment from which the person leaves to serve in*
5 *military duty is for a brief, nonrecurrent period and there is no*
6 *reasonable expectation that such employment will continue indefinitely*
7 *or for a significant period.*

8 *(2) As used in subsection (f)(g)(1), "undue hardship" means*
9 *actions requiring significant difficulty or expense, when considered in*
10 *light of:*

11 *(A) The nature and cost of the action needed under this act;*

12 *(B) the overall financial resources of the facility or facilities*
13 *involved in the provision of the action;, the number of persons employed*
14 *at such facility;, the effect on expenses and resources, or the impact*
15 *otherwise of such action upon the operation of the facility;*

16 *(C) the overall financial resources of the employer or the*
17 *employer's successor in interest; the overall size of the business of the*
18 *employer or the employer's successor in interest with respect to the*
19 *number of employees;, the number, type and location of its facilities; and*

20 *(D) the type of operation or operations of the employer or the*
21 *employer's successor in interest, including the composition, structure*
22 *and functions of the work force of such employer or successor in*
23 *interest;, the geographic separateness, administrative, or fiscal*
24 *relationship of the facility or facilities in question to the employer or*
25 *successor in interest.*

26 *New Sec. 3. (a) (1) A current member of the armed forces of the*
27 *United States or the member's spouse or dependent child who is enrolled*
28 *or has been accepted for admission at a postsecondary educational*
29 *institution as a postsecondary student shall be deemed to be a resident of*
30 *the state for the purpose of tuition and fees for attendance at such*
31 *postsecondary educational institution.*

32 *(2) A person is entitled to pay tuition and fees at an institution of*
33 *higher education at the rates provided for Kansas residents without*
34 *regard to the length of time the person has resided in the state if the*
35 *person files a letter of intent to establish residence in the state with the*
36 *postsecondary educational institution at which the person intends to*
37 *register, lives in the state while attending the postsecondary educational*
38 *institution and the person is eligible for benefits under the federal post-*
39 *9/11 veterans educational assistance act of 2008, 38 U.S.C. § 3301 et*
40 *seq., or any other federal law authorizing educational benefits for*
41 *veterans.*

42 *(b) As used in this section:*

43 *(1) "Armed forces" means the army, navy, marine corps, air force,*

1 *coast guard, Kansas army or air national guard or any branch of the*
2 *military reserves of the United States;*

3 (2) *"Postsecondary educational institution" means the same as*
4 *provided in K.S.A. 74-3201b, and amendments thereto; and*

5 (3) *"Veteran" means a person who has been separated from the*
6 *armed forces and was honorably discharged or received a general*
7 *discharge under honorable conditions.*

8 (c) *This section shall be part of and supplemental to chapter 48 of*
9 *the Kansas Statutes Annotated, and amendments thereto.*

10 *Sec. 4. K.S.A. 2014 Supp. 76-729 is hereby amended to read as*
11 *follows: 76-729. (a) (1) Persons enrolling at the state educational*
12 *institutions under the control and supervision of the state board of*
13 *regents who, if such persons are adults, have been domiciliary residents*
14 *of the state of Kansas or, if such persons are minors, whose parents have*
15 *been domiciliary residents of the state of Kansas for at least 12 months*
16 *prior to enrollment for any term or session at a state educational*
17 *institution are residents for fee purposes. A person who has been a*
18 *resident of the state of Kansas for fee purposes and who leaves the state*
19 *of Kansas to become a resident of another state or country shall retain*
20 *status as a resident of the state of Kansas for fee purposes if the person*
21 *returns to domiciliary residency in the state of Kansas within 60 months*
22 *of departure. All other persons are nonresidents of the state of Kansas*
23 *for fee purposes.*

24 ~~(2) The provisions of this subsection shall be applicable to any~~
25 ~~person enrolling at a state educational institution from and after July 1,~~
26 ~~2006. Any person who (A) qualifies as a resident of the state of Kansas~~
27 ~~for fee purposes under the provisions of this subsection, (B) attended a~~
28 ~~state educational institution during academic year 2006-2007, and (C)~~
29 ~~paid fees as if such person was not a resident of the state of Kansas, may~~
30 ~~apply to such state educational institution to be reimbursed in an~~
31 ~~amount equal to the difference between the amount the person paid in~~
32 ~~fees and the amount the person would have paid if such person had been~~
33 ~~treated as a resident of the state of Kansas. Such reimbursement shall be~~
34 ~~paid by the state educational institution at which such person was~~
35 ~~enrolled during academic year 2006-2007.~~

36 (3) *The provisions of this subsection shall not apply to a person*
37 *who is deemed a resident for fee purposes pursuant to K.S.A. 2014 Supp.*
38 *76-731a, and amendments thereto.*

39 (b) *The state board of regents may authorize the following persons,*
40 *or any class or classes thereof, and their spouses and dependents to pay*
41 *an amount equal to resident fees:*

42 (1) *Persons who are employees of a state educational institution;*

43 (2) *persons who are in military service;*

1 ~~(3) persons who are domiciliary residents of the state, who were in~~
2 ~~active military service prior to becoming domiciliary residents of the state,~~
3 ~~who were present in the state for a period of not less than two years during~~
4 ~~their tenure in active military service, whose domiciliary residence was~~
5 ~~established in the state within 30 days of discharge or retirement from~~
6 ~~active military service under honorable conditions, but whose domiciliary~~
7 ~~residence was not timely enough established to meet the residence-~~
8 ~~duration requirement of subsection (a);~~

9 ~~(4) persons having special domestic relations circumstances;~~

10 ~~(5)(3) persons who have lost their resident status within six months~~
11 ~~of enrollment;~~

12 ~~(6)(4) persons who are not domiciliary residents of the state, who~~
13 ~~have graduated from a high school accredited by the state board of~~
14 ~~education within six months of enrollment, who were domiciliary~~
15 ~~residents of the state at the time of graduation from high school or~~
16 ~~within 12 months prior to graduation from high school, and who are~~
17 ~~entitled to admission at a state educational institution pursuant to K.S.A.~~
18 ~~72-116, and amendments thereto;~~

19 ~~(7)(5) persons who are domiciliary residents of the state, whose~~
20 ~~domiciliary residence was established in the state for the purpose of~~
21 ~~accepting, upon recruitment by an employer, or retaining, upon transfer~~
22 ~~required by an employer, a position of full-time employment at a place of~~
23 ~~employment in Kansas, but the domiciliary residence of whom was not~~
24 ~~timely enough established to meet the residence duration requirement of~~
25 ~~subsection (a), and who are not otherwise eligible for authorization to~~
26 ~~pay an amount equal to resident fees under this subsection;~~

27 ~~(8) persons who have graduated from a high school accredited by the~~
28 ~~state board of education within six months of enrollment and who, at the~~
29 ~~time of graduation from such a high school or while enrolled and in~~
30 ~~attendance at such a high school prior to graduation therefrom, were~~
31 ~~dependents of a person in military service within the state; if the person,~~
32 ~~whose dependent is eligible for authorization to pay an amount equal to~~
33 ~~resident fees under this provision, does not establish domiciliary residence~~
34 ~~in the state upon retirement from military service, eligibility of the~~
35 ~~dependent for authorization to pay an amount equal to resident fees shall~~
36 ~~lapse; and~~

37 ~~(9) persons who have retired or have been honorably discharged from~~
38 ~~military service, had a permanent change of station order for active duty in~~
39 ~~Kansas during such military service and live in Kansas at the time of~~
40 ~~enrollment.~~

41 ~~(c)-(1) The state board of regents shall authorize the following class~~
42 ~~of persons to pay an amount equal to resident fees: Any dependent or~~
43 ~~spouse of a person in military service who is reassigned from Kansas to~~

1 another duty station so long as such dependent or spouse continues to
2 reside in Kansas:

3 ~~(2) So long as a person remains continuously enrolled, exclusive of~~
4 ~~summer sessions, a person who qualifies to pay resident fees by virtue of~~
5 ~~being a spouse or dependent of a person in military service shall not lose~~
6 ~~such status because of a divorce or the death of a spouse Pursuant to~~
7 ~~section 1, and amendments thereto, a veteran, an active duty member of~~
8 ~~the armed forces and the spouse and dependent child of such veteran or~~
9 ~~active duty member of the armed forces shall be deemed residents of the~~
10 ~~state for fee purposes.~~

11 *(d) As used in this section:*

12 *(1) "Parents" means and includes natural parents, adoptive*
13 *parents, stepparents, guardians and custodians.*

14 *(2) "Guardian" has the meaning ascribed thereto by K.S.A. 59-*
15 *3051, and amendments thereto.*

16 *(3) "Custodian" means a person, agency or association granted*
17 *legal custody of a minor under the revised Kansas code for care of*
18 *children.*

19 *(4) "Domiciliary resident" means a person who has present and*
20 *fixed residence in Kansas where the person intends to remain for an*
21 *indefinite period and to which the person intends to return following*
22 *absence.*

23 *(5) "Full-time employment" means employment requiring at least*
24 *1,500 hours of work per year.*

25 *(6) "Dependent" means: (A) A birth child, adopted child or*
26 *stepchild; or*

27 *(B) any child other than the foregoing who is actually dependent in*
28 *whole or in part on the person in military service and who is related to*
29 *such individual by marriage or consanguinity.*

30 ~~(7) "Military service" means: (A) Any active service in any armed~~
31 ~~service of the United States; or (B) membership in the Kansas army or air~~
32 ~~national guard.~~

33 ~~(8) {(7)}~~ *"Academic year" means the twelve-month period ending*
34 *June 30.*

35 *Sec. 5. K.S.A. 48-517 and K.S.A. 2014 Supp. 76-729 are hereby*
36 *repealed.*

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