

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2253

By Committee on Commerce, Labor and Economic Development

2-1

1 AN ACT concerning public employees; relating to ~~the executive branch of~~
2 ~~state government~~; hiring and promotion preferences **for state**
3 **employment**; providing for a preference for persons with a disability;
4 **expanding the veterans preference to include remarried spouses of**
5 **a deceased veteran who died while, and as a result of, serving in the**
6 **armed forces and to include surviving spouses, whether remarried**
7 **or not remarried of a prisoner of war; amending K.S.A. 73-201 and**
8 **repealing the existing section.**
9

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

11 **New Section 1.** Sections 1 through 3, and amendments thereto, shall
12 be known and may be cited as Kathy's bill.

13 **New Sec. 2.** For purposes of sections 1 through 3, and amendments
14 thereto:

15 (a) "Disability" means a physical or mental impairment that
16 substantially limits one or more major life activities of an individual.

17 (b) "Major life activities" includes, but is not limited to, the activities
18 of caring for oneself, performing manual tasks, seeing, hearing, eating,
19 sleeping, walking, standing, lifting, bending, speaking, breathing, learning,
20 reading, concentrating, thinking, communicating and working. "Major life
21 activities" also includes the operation of major bodily functions, including,
22 but not limited to, the immune system, normal cell growth, digestive
23 system, bowel, bladder, neurological system, brain, respiratory system,
24 circulatory system, endocrine system and reproductive system.

25 (c) "Reasonable accommodation" means:

26 (1) Making existing facilities used by employees readily accessible
27 and usable by individuals with disabilities; and

28 (2) job restructuring, part-time or modified work schedules,
29 reassignment to a vacant position, acquisition or modification of
30 equipment or devices, appropriate adjustment or modifications of
31 examinations, training materials or policies, the provision of qualified
32 readers or interpreters or other similar accommodations for individuals
33 with disabilities.

34 (d) "State government" means any department, bureau, division,
35 board, authority, agency, commission or institution of this state, except the
36 judicial and legislative branches of state government and political

1 subdivisions of the state.

2 **New Sec. 3.** (a) Persons with disabilities shall be preferred for
3 employment and promotion in the state government of Kansas if qualified,
4 with or without a reasonable accommodation, to meet the performance
5 standards of the position. In the event that a person with a disability
6 meeting the requirements of this act and a veteran, **surviving spouse of a**
7 **deceased disabled veteran or spouse or surviving spouse of a prisoner**
8 **of war** meeting the requirements of the veteran's preference established by
9 K.S.A. 73-201, and amendments thereto, apply for the same position, the
10 person having the highest qualifications meeting the performance
11 standards of the position shall receive the primary preference.

12 (b) State government job opening notices and application forms shall
13 state that the position is subject to the disability preference and explain
14 how applicants with disabilities may take advantage of the preference,
15 including information regarding the documentation of a disability that
16 shall be provided pursuant to subsection (c) and the process that will be
17 used for selection.

18 (c) An applicant who is a person with a disability shall provide
19 documentation of the person's disability to the state government hiring
20 authority when applying for the disability preference by providing a copy
21 of one of the following documents:

22 (1) Supplemental security income or social security disability
23 insurance determination letter;

24 (2) letter from a managed care organization or a qualified medical
25 professional attesting to the disability;

26 (3) home and community-based services waiver approval letter; ~~or~~

27 (4) vocational rehabilitation letter from a vocational rehabilitation
28 counselor;

29 **(5) United States department of veterans affairs benefits**
30 **summary letter or form 2055 statement from the benefit payment**
31 **record, indicating a service-connected disability; or**

32 **(6) military service physical evaluation board decision document,**
33 **as provided by 10 U.S.C. 1222(a), with a finding of unfit for duty.**

34 (d) The state government hiring authority shall offer an interview to a
35 person who has applied for an open position who is qualified, with or
36 without reasonable accommodation, to meet the performance standards of
37 the position and who has presented proof of disability as provided in
38 subsection (c).

39 (e) In any reduction in personnel by the state government employer,
40 employees who are persons with disabilities shall be retained in preference
41 to all other employees in the same job classification or job title with equal
42 qualifications, seniority, status and performance reviews.

43 (f) A person with a disability has the right to not disclose that person's

1 disability at the time of hire but may not assert a right to a retention
2 preference pursuant to subsection (e) at a later date unless the disability is
3 disclosed prior to the announcement of a layoff by submission of
4 documentation as provided in subsection (c). Disclosure may be made to
5 the state government human resources office where the employee is
6 employed and shall remain confidential unless disclosure is required for
7 the provision of a reasonable accommodation for the person with a
8 disability or for emergency preparedness planning.

9 (g) The provisions of sections 1 through 3, and amendments thereto,
10 shall not apply to positions that are filled by elected officers or vacancies
11 in such elected offices, personal secretaries of such officers, members of
12 boards and commissions, persons employed on a temporary basis,
13 positions held by patients in state institutions, inmates in the custody of the
14 secretary of corrections, students enrolled at a state educational institution,
15 heads of departments, positions that require licensure as a physician and
16 positions that require that the employee be admitted to practice law in
17 Kansas.

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

20 (A) Any person who entered the armed forces before October 15,
21 1976, and separated from the armed forces under honorable
22 conditions, if such person served: (i) On active duty during any war
23 (the official dates for war service are April 6, 1917 through July 2,
24 1921, and December 7, 1941 through April 28, 1952); (ii) during the
25 period April 28, 1952 through July 1, 1955; (iii) in any campaign or
26 expedition for which a campaign badge or service medal has been
27 authorized; or (iv) for more than 180 consecutive days since January
28 31, 1955, but before October 15, 1976, excluding an initial period of
29 active duty for training under the "six-month" reserve or national
30 guard program;

31 (B) any person who entered the armed forces on or after October
32 15, 1976, and separated from the armed forces under honorable
33 conditions, if such person was awarded a service medal or campaign
34 badge;

35 (C) any person who separated from the armed forces under
36 honorable conditions and has a disability certified by the United
37 States department of veterans affairs as being service connected, has
38 been issued the purple heart by the United States government or has
39 been released from active service with a service-connected disability;

40 (D) the spouse of a veteran who has a ~~100%~~ service connected
41 disability of 30% or greater as determined by the United States
42 department of veteran affairs;

43 (E) the ~~unremarried~~ surviving spouse, whether remarried or not

1 *remarried, of a veteran who died while, and as a result of, serving in*
2 *armed forces; and*

3 **(F) the spouse or, whether remarried or not remarried, the surviving**
4 **spouse of a prisoner of war, as defined by K.S.A. 75-4364, and**
5 **amendments thereto.**

6 **Notwithstanding the foregoing, the term "veteran" shall not apply**
7 **to any person who retired from the active military with the pay grade**
8 **of 04 or above unless the person retired due to wounds received in**
9 **combat or is a disabled veteran.**

10 **(2) "Competent" means a good faith determination that the**
11 **person is likely to successfully meet the performance standards of the**
12 **position based on what a reasonable person knowledgeable in the**
13 **operation of the position would conclude from all information**
14 **available at the time the decision is made. The basis for such**
15 **determination shall include experience, training, education, licensure,**
16 **certification and/or other factors determined by the decision making**
17 **authority as appropriate to determine the applicant's overall**
18 **qualification and ability to successfully meet the performance**
19 **standards of the position. The decision making authority shall**
20 **document such factors prior to the initiation of the selection process.**

21 **(3) "Disabled veteran" means a person who has served on active**
22 **duty in the armed forces, has been separated therefrom under**
23 **honorable conditions, and has established the present existence of a**
24 **service-connected disability or is receiving compensation, disability**
25 **retirement benefits, or pension because of a public statute**
26 **administered by the department of veterans affairs or a military**
27 **department.**

28 **(b) In grateful recognition of the services, sacrifices and**
29 **sufferings of veterans who served in the army, navy, air force, coast**
30 **guard or marine corps of the United States in world war I and world**
31 **war II, and of persons who have served with the armed forces of the**
32 **United States during the military, naval and air operations in Korea,**
33 **Viet Nam, Iraq, Afghanistan or other places under the flags of the**
34 **United States and the United Nations or under the flag of the United**
35 **States alone, and have been honorably discharged therefrom, the**
36 **provisions of this section are enacted.**

37 **(c) Veterans shall be preferred for initial employment and first**
38 **promotion in the state government of Kansas, and in the counties and**
39 **cities of this state, if competent to perform such services. Any veteran**
40 **thus preferred shall not be disqualified from holding any position in**
41 **such service on account of the veteran's age or by reason of any**
42 **physical or mental disability as long as such age or disability does not**
43 **render the veteran incompetent to perform the duties of the position**

1 applied for. When any veteran shall apply for appointment to any
2 such position, place, or employment, the officer, board or person
3 whose duty it is or may be to appoint a person to fill such place shall,
4 if the applicant be a veteran of good reputation, and can competently
5 perform the duties of the position applied for by the veteran, consider
6 the veteran for appointment to such position, place, or employment.
7 Within 30 days of filling a position, eligible veterans who have applied
8 and are not hired shall be notified by certified mail or personal service
9 that they are not being hired. Such notice also shall advise the veteran
10 of any administrative appeal available.

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

21 (e) All notices of job openings, if any, and all applications for
22 employment, if any, by the state and any city or county in this state
23 shall state that the job is subject to a veteran's preference, how the
24 preference works and how veterans may take advantage of the
25 preference and post a written statement of: (1) The qualifications for
26 such position; (2) any preferred qualifications of such position; (3)
27 performance standards for the position; and (4) the process that will
28 be used for selection. A veteran, or a spouse who qualifies for the
29 veteran's preference, desiring to use a veteran's preference shall
30 provide the hiring authority with a copy of the veteran's DD214 form
31 or the DD214 form of the veteran under which the spouse qualifies for
32 the preference.

33 (f) Every employment center of the state and any city or county
34 human resources department, if any, shall openly display documents
35 that indicate that veterans are eligible for a preference in their initial
36 employment and any first promotion within the employment of the
37 governmental entity.

38 (g) Any veteran who alleges that a state agency, city or county has
39 not provided the veterans preference as required by this act, after
40 exhausting any available administrative remedy, may bring an action
41 in the district court.}

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

43 Sec.-4: 6. This act shall take effect and be in force from and after its

- 1 publication in the statute book.