

Report of the Stakeholder Work Group on Veterans' Preference in Employment

House Veterans and Emergency Preparedness Committee

Senate Bill 87 | May 19, 2015

Summary

Senate Bill 87 is a carefully considered and comprehensive approach to veterans' preference in public employment that was developed by a diverse stakeholder work group. The existing statutes on veterans' preference are unclear, confusing and provide no real guidance on implementation for public employers. The existing statutes were rewritten. The result of this work is a clear and uniform method by which a public employer gives special consideration to qualified veterans and disabled veterans during hiring processes for vacant competitive positions. There is no known fiscal impact.

An important goal for the stakeholders was to ensure veterans and disabled veterans receive no less than the level of special consideration that is provided in current statutes. For the veteran, Senate Bill 87 is designed to apply a fair and meaningful preference at every key stage in the hiring process and creates more defined opportunities for qualified and competitive veterans to have an initial interview. After screening applicants for those who meet the required qualifications for the position, the key stages in a hiring process are the evaluation stage, the initial interview stage, and the final selection process.

Preference is applied at each of these key stages using methods that move veterans ahead of other non-veteran applicants, and disabled veterans are given a greater preference than veterans. The initial interview stage is emphasized in Senate Bill 87 because it provides the best opportunity for a veteran to describe and explain their transferable military education and experience, and because reinforces the purpose and intent of HB 3207 (2011).

A new and significant benefit to veterans is the requirement that employers interview at least five veterans during an unscored hiring process. Another new benefit to veterans in Senate Bill 87 is the requirement that an employer give the same weight to a veteran's transferrable skills as the employer gives to skills and experience obtained outside of the military. Finally, during the final selection stage, if a veteran or disabled veteran is equally or better qualified than any other candidate, the employer must offer the position to the veteran. Currently only veterans who take

scored examinations are given this final hiring preference in statute; Senate Bill 87 provides this preference at the final selection stage for all hiring processes.

For the public employer, Senate Bill 87 outlines clear and straightforward methods to apply veterans’ preference that the employer can implement and explain. The stakeholder group needed to design methods for applying veterans’ preference that can be used by all public employers, which includes the State of Oregon and political subdivisions, large and small cities, counties, police and fire districts, governmental authorities, and public corporations or entities. Public employers in Oregon all have different procedures and terminology for hiring processes. The stakeholders agreed on terminology that was clearly defined, universally functional and easy to understand.

Senate Bill 87 has defined terms, states the legislative intent, policy and purposes and applies preference using methods that are easily understood by veterans and public employers. The changes to the statute resolve the significant problems with the current statute and give veterans meaningful preference.

Senate Bill 87 is the result eight months of collaboration and consensus-building by a 13-member stakeholder work group. Stakeholders developed language, definitions and methods that can be universally understood and implemented by all Oregon cities, counties, districts, authorities, public corporations and the State of Oregon. Note that five of the stakeholders are veterans or have served in the military. The stakeholders include:

Heidi Brown, Deputy City Attorney City of Portland	Cynthia Forest, Human Resources Manager, Oregon Military Department
Andy Smith, AOC Veterans Committee, Association of Oregon Counties	Kyle Abraham, Oregon Public Employers Labor Relations Association (“ORPLERA”)
Kathryn Short, Senior Assistant County Attorney Multnomah County	Laurie Skillman, Senior Policy Analyst Oregon Department of Veterans’ Affairs
Madilyn Zike, Chief Human Resources Officer State of Oregon	Twyla Lawson, Senior Recruitment Consultant State of Oregon DAS
Scott Winkels, Intergovernmental Relations Associate, League of Oregon Cities	Julie Owens, Human Resources Manager, Oregon Department of Veterans’ Affairs
Jim Booker, Federal Programs Manager State of Oregon Employment Department	Dave Ferre, Deputy Director State Affairs Oregon Military Department
Amy Lippay, Human Resources Manager Multnomah County	

Veterans' Preference is Valued and Important

The stakeholders believe that veterans' preference is valued and important because it recognizes the sacrifices made by the men and women who have served in the Armed Forces, it restores veterans to a competitive position for public employment, and it acknowledges a greater obligation owed to service-connected disabled veterans. Veterans have proven to be valued employees due to their rigorous training, sense of teamwork, leadership skills and abilities to learn new skills and concepts.

Challenges with Existing Veterans Preference Statutes

The challenges the existing statutes create for veterans and public employers include:

- Unclear definitions, confusing language, and no methods provided for how public employers apply preference.
- Legislative intent unclear.
- ORS 408.237 (from HB 3207 (2011) on transferable skills/interviews) does not mesh with ORS 408.230 (preference).
- The lack of clarity in statutes has led to litigation.
- Problems with the current statutory 5-point and 10-point preference system.
- Large candidate pools and unclear interview requirements in ORS 408.237.
- Current definition of "disabled veteran" needs to be updated.

Summary of the Purposes of Senate Bill 87

The purposes of Senate Bill 87 are to:

- Provide veterans a meaningful, fair and uniform hiring process for veterans' preference
- Emphasize initial interviews for veterans and disabled veterans
- Establish clear and uniform methods for applying veterans' preference in hiring processes.
- Require employers to give the same weight to a veteran's transferrable skills as the employer give to skills and experience obtained outside of the military
- Define terms clearly. Use plain language that is easily understood by veterans/employers.
- Design universal methods for applying veterans' preference that can be used by all public employers,
- Apply veterans' preference in the context of a public employment competitive hiring process.

- Reconcile ORS 408.237 and 408.230.
- Establish legislative findings, policy and intent in the statute.

Two Key Interpretation Issues Addressed

Two important issues addressed by Senate Bill 87 are the interpretations that:

- A public employer must apply veterans' preference "at every stage" of the hiring process.
- A public employer must provide "every qualified veteran with an interview."

Senate Bill 87: "At every stage" is not in current statute. New preference has meaningful preference applied at three key stages and the adds a minimum of five veteran interviews.

Nothing in the current veterans' preference statutes suggests or requires the application of veterans' preference "at every stage" of the hiring process. The requirement that a public employer apply preference "at every stage" is only an interpretation, not found in statute.

Senate Bill 87 requires public employers to apply veterans' preference at three key stages in the hiring process, with a focus on the initial interview. The methods for applying veterans' preference are designed to apply a fair and more meaningful preference than the current statute. Preference is applied by using methods that move veterans ahead of other non-veteran applicants, and disabled veterans are given a greater preference than veterans.

After screening applicants for those who meet the required qualifications, the key stages where preference is applied are the 1) evaluation stage; 2) the initial interview stage where veterans can describe and explain their transferable skills; and 3) the final selection process.

A new law benefits veterans directly because it requires employers to interview at least five veterans; it requires employers to give the same weight to a veteran's transferrable skills as the employer gives to skills and experience obtained outside of the military and, during the final selection stage, if a veteran or disabled veteran is equally or better qualified than any other applicant, the employer must offer the position to the veteran. Currently only veterans who take scored examinations are given this final hiring preference in statute; Senate Bill 87 provides this preference at the final selection stage for all hiring processes.

Senate Bill 87: Interview every qualified and competitive veteran

The interpretation that a public employer must interview “every qualified veteran” demonstrates the problems with the inconsistent language in ORS 408.230 and 408.237, because the statutes can easily be interpreted to mean that “every qualified and *competitive* veteran must be interviewed.”

Interviewing every veteran who is minimally qualified has two unintended consequences. First, for large applicant pools for entry-level positions (often over 1,000 applicants) it is inefficient and not cost effective for employers to interview all “qualified veterans,” because it would often require interviewing more than 50 to 75 veteran applicants. Interviewing large numbers of veterans does not serve veterans well. It requires unnecessary sacrifices for the veteran, including time and expenses for travel or lost wages, and gives the veteran false hope about their chances for a job because, to most people, an interview means the individual has a *reasonable chance* of getting the job. The invitation to interview is not a statement to the candidate about the competitiveness of the candidate. Some consider this process is not respectful of a veteran’s time and efforts.

Senate Bill 87 resolves this issue by providing a method of applying veterans’ preference that is more meaningful to veterans and disabled veterans. During the evaluation stage, the public employer considers the skills, training, experience and knowledge a veteran or disabled veteran has that make the veteran competitive with other applicants and then uses preference to move the veteran or disabled veteran ahead of other applicants the employer will consider for an interview. Preference at this stage gives veterans a greater opportunity for an interview, where they may describe and explain their transferable skills. In addition, if an employer is using an unscored hiring process, the employer is required to interview at least five veterans, which is another form of preference.

Detailed Purposes of Senate Bill 87

1. Define terms clearly. Use plain language that is easily understood by veterans and employers.

One of the most important goals and purposes of Senate Bill 87 is to create a veterans’ preference statute that is clear and easy to understand for veterans, public employers and the public. All key terms are defined and existing definitions were clarified. Plain language was used.

2. Design methods for applying veterans’ preference that can be used by all public employers, which includes the State of Oregon and political subdivisions, large and small cities, counties, police and fire districts, authorities, and public corporations or entities.

Public employers in Oregon all have different procedures and terminology for hiring processes. The stakeholders agreed on terminology that was clearly defined, universally functional and easy to understand.

3. For the veteran and disabled veteran, provide veterans with a meaningful, fair and uniform hiring process for applying veterans’ preference.

A key goal and purpose of Senate Bill 87 was to ensure that veterans and disabled veterans (“veterans”) are given a meaningful, fair and uniformly applied preference and create opportunities for more qualified and competitive veterans to have an initial interview. After screening applicants for those who meet the required qualifications for the position, the key stages in a hiring process are the evaluation stage, the initial interview stage, and the final selection process.

Preference is applied at each of these key stages using methods that move veterans ahead of other non-veteran applicants, and gives disabled veterans a greater preference than veterans. The initial interview stage is very important because it provides the best opportunity for a veteran to describe and explain their transferable military education and experience. During the final selection stage, if a veteran or disabled veteran is equally or better qualified than any other candidate, the employer must offer the position to the veteran.

4. Emphasize initial interviews for veterans and disabled veterans.

The two hiring processes in Senate Bill 87 were developed with an emphasis on providing more veterans with an opportunity for an initial interview. It is a challenge to describe transferable military skills on a written application or resume. An initial interview provides a veteran with a valuable opportunity to describe and explain the veteran’s military education and experiences. HB 3207 focused on providing interviews for veterans to explain their transferrable skills and the stakeholder group believed that it was important to maintain this focus in Senate Bill 87.

5. Establish clear and uniform methods for applying veterans’ preference in hiring processes. Require employers to give the same weight to a veteran’s transferrable skills as the employer gives to skills and experience obtained outside of the military

Currently, there are no methods in statute for applying veterans' preference. Senate Bill 87 establishes two clear, straightforward methods of applying preference in a uniform manner that are easy to understand and implement: a "tested and scored" process and a "sorted or ranked" process. A chart of these two processes is found in **Appendix A**.

Tested and Scored Process. One method is a "tested and scored" selection process, which uses test scores to establish a list of qualified applicants, based on a 100-point system.

- After scoring all applicants, the *employer must apply veterans' preference* by giving an additional 5 points to veterans and 10 points to disabled veterans.
- Employer may choose to select only the top ranked applicant to interview or offer the job.
- If an employer selects more than one applicant to offer an interview(s), at the final selection stage, *the employer must apply veterans' preference* as follows:
 - a) If a veteran is equal to or more qualified than a non-veteran, the employer must offer the position to the veteran, or
 - b) If a disabled veteran is equal to or more qualified than a veteran or non-veteran the employer must offer the position to the disabled veteran.
- In any interview or evaluation, the employer must give the same weight to a veteran's transferrable skills as the employer gives to skills and experience obtained outside of the military.

Sorted or Ranked Process. The second method, called the "sorted or ranked" selection process, does not use test scores. Qualified applicants are sorted into groups or ranks based on how closely the applicant's skills, experience, knowledge and training meet the employer's preferred qualifications for the position.

- After sorting or ranking, the *employer establishes and must apply a method to give veterans' preference* to a veteran and greater preference to a disabled veteran. For example, the employer could apply veterans' preference by moving a veteran up to the next highest group and moving a disabled veteran moved up two higher groups.
- The employer then offers initial interviews to applicants based on their ranking. The *public employer must apply veterans' preference* by offering an initial of the five highest-ranked veterans and disabled veterans. (Note: if there are fewer than five

veteran or disabled veteran applicants, the public employer shall offer interviews to all). The employer may have a series of interviews after the initial interview.

- When the employer makes a hiring decision from the final applicant pool *the employer must apply veterans' preference* by offering the position to an applicant as follows:
 - a) If a veteran is equal to or more qualified than a non-veteran, the employer must offer the position to the veteran, or
 - b) If a disabled veteran is equal to or more qualified than a veteran or non-veteran the employer must offer the position to the disabled veteran.
- In any interview or evaluation, the employer must give the same weight to a veteran's transferrable skills as the employer gives to skills and experience obtained outside of the military.

6. Apply veterans' preference is made in the context of a competitive hiring process.

Public employers are required to use a merit-based, competitive hiring process for vacant positions. Veteran's preference is granted in the *context* of a merit-based process, which includes, but is not limited to, consideration of an applicant's relative ability, knowledge, experience and other skills. ORS 408.230(3) states: "Preferences of the type described in subsection (1) of this section are not a requirement that the public employer appoint a veteran or disabled veteran to a civil service position."

7. Reconcile ORS 408.237 and 408.230.

The veterans' preference statute (ORS 408.230) and the statute on interviewing and transferrable skills (ORS 408.237) are reconciled in Senate Bill 87.

8. Establish Legislative findings and Legislative policy and intent in the statute.

The lack of clear legislative intent in the current statutes has created confusion and resulted in litigation. The Legislative findings and policy are set out in the beginning of Senate Bill 87. Clear Legislative intent, clear definitions and straightforward methodology with minimize the need for interpretation.

Summary

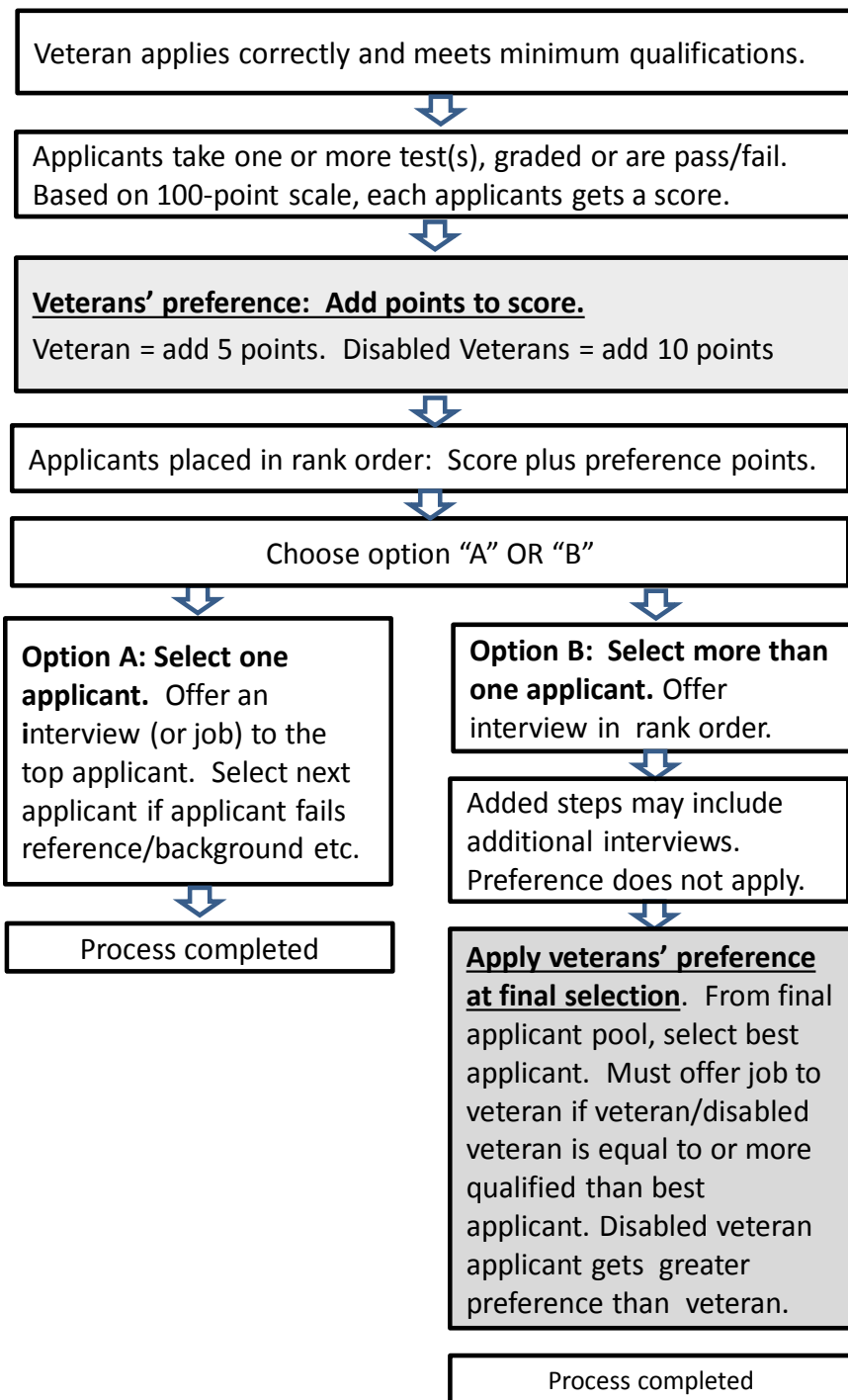
The revised statutes are beneficial to veterans because they are clear and easy to understand; they provide a fair and meaningful preference; they provide opportunities for qualified and competitive

veterans to interview and describe and explain their transferable skills; they require employers using an unscored process to interview at least five veterans; and during the final selection stage, if a veteran or disabled veteran is equally or better qualified than any other candidate, the employer must offer the position to the veteran. Under Senate Bill 87, a veteran receives no less than the level of special consideration that is provided in current statutes

Senate Bill 87 has defined terms, states the legislative intent, policy and purposes and applies preference using methods that are easily understood by veterans and public employers. The changes to the statute resolve the significant problems with the current statute and give veterans meaningful preference.

Appendix A: Two Methods of Applying Veterans' Preference

Veterans' Preference: Tested and Scored Selection Process



Unscored Sorted/Ranked/Unscored Method

