

Oregon State Bar
Testimony before the
Senate
Committee on Veterans and Emergency Services
February 4, 2021

Good afternoon. My name is Trevor Caldwell. I am a labor and employment attorney in private practice at Barran Liebman LLP. Leah Watson, an attorney with the U.S. Department of Veterans Affairs in Portland, and I are representatives of the Oregon State Bar's Military and Veterans Law Section and bring SB 184 to the Committee on Veterans and Emergency Services for your consideration. The Military and Veterans Law Section is made up of lawyers throughout Oregon who represent service members in a wide range of legal areas.

Oregon State Bar

The Oregon State Bar (OSB) is a public corporation and an instrumentality of the court with over 15,000 active members. The Oregon State Bar serves the public interest by: regulating the legal profession and improving the quality of legal services; supporting the judiciary and improving the administration of justice; and advancing a fair, inclusive and accessible justice system.

Today I want to express the Military and Veterans Law Section's support for SB 184 and urge the Senate Committee on Veterans and Emergency Services to support the bill. The bill before you today addresses two issues which affect veterans and current service members in Oregon.

Veterans' Preference in Public Employment. ORS 408.230(2) states that "the employer shall add five preference points to a veteran's score and 10 preference points to a disabled veteran's score." At issue is the fact that "preference point" is not defined by the statute or implementing regulation, nor do the statute or regulation define a total number of points to which the preference must be applied (for example, 100 points). This language is ambiguous. The section's proposal, found in SB 184, would amend ORS 408.230(2) to make "preference point" synonymous with "percentage point." This will remove the current ambiguity and ensure that every veteran or disabled veteran receives the same level of preference regardless of the employer's hiring process or scoring scale. This will also make the intent of the veterans preference clear to employers—that eligible veterans receive a five percentage point preference, and that disabled veterans receive a ten percentage point preference. In short, this change will make application of the veterans preference fairer for Oregon's veterans, and easier for Oregon's public employers.

Military Preference Statute. ORS 408.235 limits veteran preference in public hiring to applications made after discharge from the Armed Forces. This can prevent military members

from receiving the veteran preference while transitioning from active duty to civilian life. Further, the disabled veteran preference is limited to post-VA claim adjudication, even if the service member was medically separated from the military.

The section's proposal, again found in SB 184, would amend Oregon law to allow for a DOD Certificate of Service to be used in lieu of a DD214 when less than 120 days from an honorable separation, and an approved medical separation be used in lieu of an adjudged VA claim. The proposed process is similar to the existing federal public hiring preference under 5 USC § 2108-2108a.

The DD Form 214, Certificate of Release or Discharge from Active Duty, generally referred to as a "DD 214", is a document of the United States Department of Defense, issued upon a military service member's retirement, separation, or discharge from active duty in the Armed Forces of the United States, e.g., U.S. Army, U.S. Navy, U.S. Marine Corps, U.S. Air Force, U.S. Space Force, and the U.S. Coast Guard. Like the DD214, the NGB22 provides all of the pertinent information about an individual's military career, including the nature of discharge. A DD256, on the other hand, is basically just a statement confirming the individual served and was discharged under honorable conditions.

We appreciate the Committee's consideration of SB 184, and urge its passage. Thank you for the opportunity to testify and we will gladly do our best to answer any questions the Committee may have.