



Rep. Robert W. Pritchard

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1 AMENDMENT TO HOUSE BILL 3122

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3122 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Veterans Preference in Private Employment Act.

6 Section 5. Purpose. The General Assembly intends to  
7 establish a permissive preference in private employment for  
8 certain veterans.

9 Section 10. Definitions. As used in this Act:

10 "Armed forces of the United States" means the United States  
11 Army, Navy, Air Force, Marine Corps, and Coast Guard, or the  
12 reserve component of any of those, and includes the Illinois  
13 National Guard.

14 "Private employer" means any non-public sole proprietor,  
15 corporation, partnership, limited liability company, or other

1 private, non-public entity employing one or more employees  
2 within Illinois.

3 "Veteran" means an individual who meets one or more of the  
4 following:

5 (1) has served on active duty with the armed forces of  
6 the United States for a period of more than 180 days and  
7 was discharged or released from active duty under  
8 conditions other than dishonorable; or

9 (2) was discharged or released from active duty with  
10 the armed forces of the United States because of a  
11 service-connected disability.

12 "Veterans' preference employment policy" means a private  
13 employer's voluntary preference for hiring, promoting, or  
14 retaining a veteran over another equally qualified applicant or  
15 employee.

16 Section 15. Veterans' preference employment policy. A  
17 private employer may adopt and apply a voluntary veterans'  
18 preference employment policy if:

19 (1) the veterans' preference employment policy is in  
20 writing;

21 (2) the veterans' preference employment policy is  
22 publicly posted by the private employer at the place of  
23 employment or on any website maintained by the private  
24 employer;

25 (3) the private employer's job application informs all

1 applicants of the veterans' preference employment policy  
2 and where the policy may be obtained; and

3 (4) the private employer applies the veterans'  
4 preference employment policy uniformly for all employment  
5 decisions regarding the hiring or promotion of veterans or  
6 the retention of veterans during a reduction in force.

7 Section 20. Verification of eligibility. A private  
8 employer who maintains a veterans' preference employment  
9 policy pursuant to Section 15 of this Act may require and rely  
10 on an applicant's or employee's Department of Defense form  
11 DD214 or its predecessor or successor forms, an applicant's or  
12 employee's NGB-22 discharge form or its predecessor or  
13 successor forms (if a member of the National Guard), and a U.S.  
14 Department of Veterans Affairs award letter (if the applicant  
15 or employee is claiming a service-connected disability) to  
16 establish eligibility for such policy.

17 Section 25. The Illinois Human Rights Act is amended by  
18 changing Section 2-104 as follows:

19 (775 ILCS 5/2-104) (from Ch. 68, par. 2-104)

20 Sec. 2-104. Exemptions.

21 (A) Nothing contained in this Act shall prohibit an  
22 employer, employment agency or labor organization from:

23 (1) Bona Fide Qualification. Hiring or selecting

1 between persons for bona fide occupational qualifications  
2 or any reason except those civil-rights violations  
3 specifically identified in this Article.

4 (2) Veterans. Giving preferential treatment to  
5 veterans and their relatives as required by the laws or  
6 regulations of the United States or this State or a unit of  
7 local government, or pursuant to a private employer's  
8 voluntary veterans' preference employment policy  
9 authorized by the Veterans Preference in Private  
10 Employment Act.

11 (3) Unfavorable Discharge From Military Service. Using  
12 unfavorable discharge from military service as a valid  
13 employment criterion when authorized by federal law or  
14 regulation or when a position of employment involves the  
15 exercise of fiduciary responsibilities as defined by rules  
16 and regulations which the Department shall adopt.

17 (4) Ability Tests. Giving or acting upon the results of  
18 any professionally developed ability test provided that  
19 such test, its administration, or action upon the results,  
20 is not used as a subterfuge for or does not have the effect  
21 of unlawful discrimination.

22 (5) Merit and Retirement Systems.

23 (a) Applying different standards of compensation,  
24 or different terms, conditions or privileges of  
25 employment pursuant to a merit or retirement system  
26 provided that such system or its administration is not

1           used as a subterfuge for or does not have the effect of  
2           unlawful discrimination.

3           (b) Effecting compulsory retirement of any  
4           employee who has attained 65 years of age and who, for  
5           the 2-year period immediately preceding retirement, is  
6           employed in a bona fide executive or a high  
7           policymaking position, if such employee is entitled to  
8           an immediate nonforfeitable annual retirement benefit  
9           from a pension, profit-sharing, savings, or deferred  
10          compensation plan, or any combination of such plans of  
11          the employer of such employee, which equals, in the  
12          aggregate, at least \$44,000. If any such retirement  
13          benefit is in a form other than a straight life annuity  
14          (with no ancillary benefits) or if the employees  
15          contribute to any such plan or make rollover  
16          contributions, the retirement benefit shall be  
17          adjusted in accordance with regulations prescribed by  
18          the Department, so that the benefit is the equivalent  
19          of a straight life annuity (with no ancillary benefits)  
20          under a plan to which employees do not contribute and  
21          under which no rollover contributions are made.

22          (c) Until January 1, 1994, effecting compulsory  
23          retirement of any employee who has attained 70 years of  
24          age, and who is serving under a contract of unlimited  
25          tenure (or similar arrangement providing for unlimited  
26          tenure) at an institution of higher education as

1 defined by Section 1201(a) of the Higher Education Act  
2 of 1965.

3 (6) Training and Apprenticeship programs. Establishing  
4 an educational requirement as a prerequisite to selection  
5 for a training or apprenticeship program, provided such  
6 requirement does not operate to discriminate on the basis  
7 of any prohibited classification except age.

8 (7) Police and Firefighter/Paramedic Retirement.  
9 Imposing a mandatory retirement age for  
10 firefighters/paramedics or law enforcement officers and  
11 discharging or retiring such individuals pursuant to the  
12 mandatory retirement age if such action is taken pursuant  
13 to a bona fide retirement plan provided that the law  
14 enforcement officer or firefighter/paramedic has attained:

15 (a) the age of retirement in effect under  
16 applicable State or local law on March 3, 1983; or

17 (b) if the applicable State or local law was  
18 enacted after the date of enactment of the federal Age  
19 Discrimination in Employment Act Amendments of 1996  
20 (P.L. 104-208), the age of retirement in effect on the  
21 date of such discharge under such law.

22 This paragraph (7) shall not apply with respect to any  
23 cause of action arising under the Illinois Human Rights Act  
24 as in effect prior to the effective date of this amendatory  
25 Act of 1997.

26 (8) Police and Firefighter/Paramedic Appointment.

1 Failing or refusing to hire any individual because of such  
2 individual's age if such action is taken with respect to  
3 the employment of an individual as a firefighter/paramedic  
4 or as a law enforcement officer and the individual has  
5 attained:

6 (a) the age of hiring or appointment in effect  
7 under applicable State or local law on March 3, 1983;  
8 or

9 (b) the age of hiring in effect on the date of such  
10 failure or refusal to hire under applicable State or  
11 local law enacted after the date of enactment of the  
12 federal Age Discrimination in Employment Act  
13 Amendments of 1996 (P.L. 104-208).

14 As used in paragraph (7) or (8):

15 "Firefighter/paramedic" means an employee, the duties  
16 of whose position are primarily to perform work directly  
17 connected with the control and extinguishment of fires or  
18 the maintenance and use of firefighting apparatus and  
19 equipment, or to provide emergency medical services,  
20 including an employee engaged in this activity who is  
21 transferred to a supervisory or administrative position.

22 "Law enforcement officer" means an employee, the  
23 duties of whose position are primarily the investigation,  
24 apprehension, or detention of individuals suspected or  
25 convicted of criminal offenses, including an employee  
26 engaged in this activity who is transferred to a

1 supervisory or administrative position.

2 (9) Citizenship Status. Making legitimate distinctions  
3 based on citizenship status if specifically authorized or  
4 required by State or federal law.

5 (B) With respect to any employee who is subject to a  
6 collective bargaining agreement:

7 (a) which is in effect on June 30, 1986,

8 (b) which terminates after January 1, 1987,

9 (c) any provision of which was entered into by a labor  
10 organization as defined by Section 6(d)(4) of the Fair  
11 Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

12 (d) which contains any provision that would be  
13 superseded by this amendatory Act of 1987 (Public Act  
14 85-748),

15 such amendatory Act of 1987 shall not apply until the  
16 termination of such collective bargaining agreement or January  
17 1, 1990, whichever occurs first.

18 (C)(1) For purposes of this Act, the term "disability"  
19 shall not include any employee or applicant who is currently  
20 engaging in the illegal use of drugs, when an employer acts on  
21 the basis of such use.

22 (2) Paragraph (1) shall not apply where an employee or  
23 applicant for employment:

24 (a) has successfully completed a supervised drug  
25 rehabilitation program and is no longer engaging in the  
26 illegal use of drugs, or has otherwise been rehabilitated



1           successfully and is no longer engaging in such use;

2           (b) is participating in a supervised rehabilitation  
3 program and is no longer engaging in such use; or

4           (c) is erroneously regarded as engaging in such use,  
5 but is not engaging in such use.

6           It shall not be a violation of this Act for an employer to  
7 adopt or administer reasonable policies or procedures,  
8 including but not limited to drug testing, designed to ensure  
9 that an individual described in subparagraph (a) or (b) is no  
10 longer engaging in the illegal use of drugs.

11          (3) An employer:

12           (a) may prohibit the illegal use of drugs and the use  
13 of alcohol at the workplace by all employees;

14           (b) may require that employees shall not be under the  
15 influence of alcohol or be engaging in the illegal use of  
16 drugs at the workplace;

17           (c) may require that employees behave in conformance  
18 with the requirements established under the federal  
19 Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.) and  
20 the Drug Free Workplace Act;

21           (d) may hold an employee who engages in the illegal use  
22 of drugs or who is an alcoholic to the same qualification  
23 standards for employment or job performance and behavior  
24 that such employer holds other employees, even if any  
25 unsatisfactory performance or behavior is related to the  
26 drug use or alcoholism of such employee; and

1 (e) may, with respect to federal regulations regarding  
2 alcohol and the illegal use of drugs, require that:

3 (i) employees comply with the standards  
4 established in such regulations of the United States  
5 Department of Defense, if the employees of the employer  
6 are employed in an industry subject to such  
7 regulations, including complying with regulations (if  
8 any) that apply to employment in sensitive positions in  
9 such an industry, in the case of employees of the  
10 employer who are employed in such positions (as defined  
11 in the regulations of the Department of Defense);

12 (ii) employees comply with the standards  
13 established in such regulations of the Nuclear  
14 Regulatory Commission, if the employees of the  
15 employer are employed in an industry subject to such  
16 regulations, including complying with regulations (if  
17 any) that apply to employment in sensitive positions in  
18 such an industry, in the case of employees of the  
19 employer who are employed in such positions (as defined  
20 in the regulations of the Nuclear Regulatory  
21 Commission); and

22 (iii) employees comply with the standards  
23 established in such regulations of the United States  
24 Department of Transportation, if the employees of the  
25 employer are employed in a transportation industry  
26 subject to such regulations, including complying with

1           such regulations (if any) that apply to employment in  
2           sensitive positions in such an industry, in the case of  
3           employees of the employer who are employed in such  
4           positions (as defined in the regulations of the United  
5           States Department of Transportation).

6           (4) For purposes of this Act, a test to determine the  
7           illegal use of drugs shall not be considered a medical  
8           examination. Nothing in this Act shall be construed to  
9           encourage, prohibit, or authorize the conducting of drug  
10          testing for the illegal use of drugs by job applicants or  
11          employees or making employment decisions based on such test  
12          results.

13          (5) Nothing in this Act shall be construed to encourage,  
14          prohibit, restrict, or authorize the otherwise lawful exercise  
15          by an employer subject to the jurisdiction of the United States  
16          Department of Transportation of authority to:

17               (a) test employees of such employer in, and applicants  
18               for, positions involving safety-sensitive duties for the  
19               illegal use of drugs and for on-duty impairment by alcohol;  
20               and

21               (b) remove such persons who test positive for illegal  
22               use of drugs and on-duty impairment by alcohol pursuant to  
23               subparagraph (a) from safety-sensitive duties in  
24               implementing paragraph (3).

25          (Source: P.A. 97-877, eff. 8-2-12.)".